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ABSTRACT

This publication is a compilation of primary source materials related to issues that have occupied the attention of the American people from colonial days to the present. It is intended for use at the secondary level. A prologue contains creation stories and poems on the origins of the world and man. Documentation of the primary sources is provided. Five chapters treat specific time periods in U.S. history. The time periods covered include the European Colonization of North America, 1492-1700; Founding the New Nation, 1770-1800; Establishing the New Nation, 1800-1865; Reconstruction, Industrialism, and Imperialism, 1865-1912; and International Involvement, Social Change, and Liberation, 1912-1976. Each chapter presents a brief introduction, identifies five or six issues, and concludes with a bibliography of the sources of the primary materials. A general reading list concludes the publication. (Author/RM)

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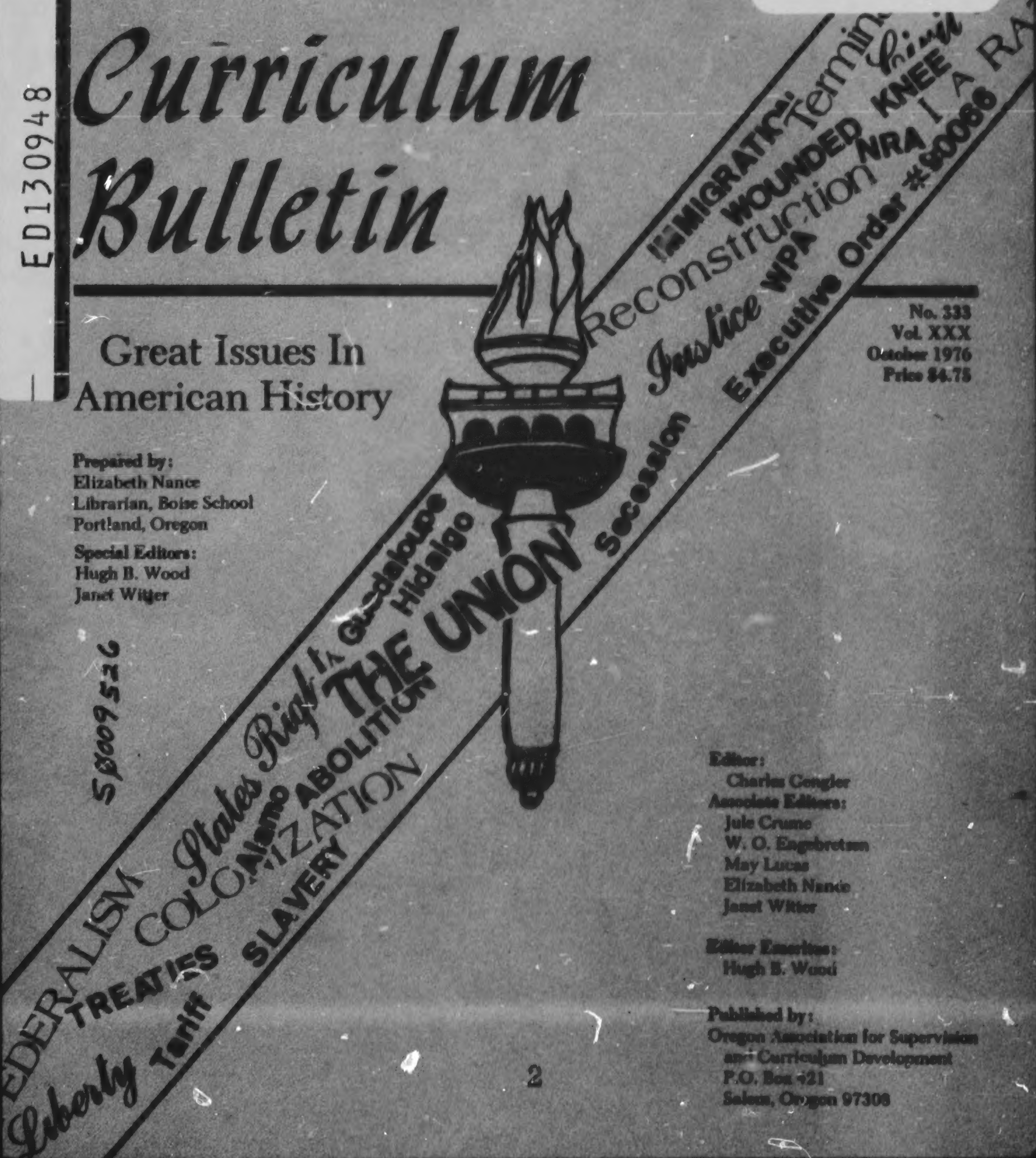
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The preparation of this manuscript for publication been an extensive and time-consuming project during the past fifteen months. The effort stems from some dissatisfaction with materials now available to schools for teaching the facets of American history covered by this publication, and a strong belief in the "issues" approach to teaching the history of American democracy. Furthermore, it is the conviction of all who have worked on this project that the *unbiased* examination of all of the content of American history — facts, beliefs, aspirations, sentiments; documents, histories, source materials; presentations, interpretations, and analyses; in short, everything that enlightens — will result in an *unbiased* understanding of American history, and will eliminate the need for *corrective* history — special studies of minorities, social problems, and separate disciplines. This bulletin attempts to present some issues of American history as a part of the total American scene; we hope that the reader will not see this simply as a focus on minorities.

Many teachers will wish to use this publication and *OrASCD Curriculum Bulletin No. 326* as a companion volume.

The writers and special editors wish to emphasize that the presentation of this booklet would not have been possible without the help and support of many agencies and people. The Oregon Association for Supervision and Curriculum Development, which sponsors the *OrASCD Curriculum Bulletin*, has given special support to this effort, and the *Curriculum Bulletin* staff has contributed extra time and effort to this issue. Special appreciation is due the Portland, Oregon, School District for its generous support in providing released time for the writers, secretarial and office services, and other support, all of which was negotiated and coordinated by Dr. James Fenwick, Area III, Administrator for Curriculum Development.

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Beth Nance
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Hugh Wood
Janet Witter

Great Issues In American History

A Compilation of Primary Sources Related to Issues that Have Occupied the Attention of the American People from Colonial Days to the Present

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Librarian, Boise School
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Prologue
A Diverse Heritage of Great Antiquity

INTRODUCTION

The people we call Americans have long roots that extend into a distant past on other continents. Even the original Americans, who have been here for thousands of years, were immigrants at one time.

Until recently it was common to speak of the United States as a "melting pot," as if the cultures of immigrants were supposed to become so assimilated as to lose separate identity. As an eighteenth century colonial writer described it:

> Here individuals of all nations are melted into a new race of men, whose labors and posterity will one day cause great change in the world. Americans are the western pilgrims who are carrying along with them that great mass of arts, sciences, vigor and industry which began long since in the east; they will finish the great circle.[1]

Now a different figure of speech is being used to describe the people of the United States. The cultural pluralism in which many are now taking pride is more accurately portrayed as a salad, or stew. The ingredients are still distinct and enjoyed for their particular taste, and also appreciated for what they add to the whole. Not even the ingredients of a stew are ever the same again, once they have cooked together in the pot. Ever since the days when the original Americans taught the colonists to put fish into the corn seed holes, and Indians learned to speak English and Dutch while trading for European goods, an interchange has been taking place that is irreversible. In reality, the contributions of many cultures have shaped American life, and have been visible to any who were not too blinded by ethnocentrism to see and acknowledge them.

What was the cultural heritage of Europeans, Africans, Asians, and the indigenous Americans, before 1492? What were the religious beliefs that guided them? What concepts prevailed of authority and government? Impossible as it is to give an adequate portrayal in just a few pages, this prologue will attempt to provide some illustrations of the data that are available. Four main streams of ethnic tradition will be represented: American Indian, European, African, Asian. The examples are not intended to be definitive nor comprehensive. Rather, they will represent only a sampling of the vast literature that is available, with a bibliography for further exploration. Some are from oral tradition, and some are quotations from recorded literature and documents. There are two main sections; origins and social order. Selections have been made to emphasize parallels rather than contrasts.

I. ORIGINS: CREATION STORIES AND POEMS

A. CREATION OF THE WORLD AND OF MAN

1. Then He Descended (Mayan)

Then he descended
while the heavens rubbed against the earth.
They moved among the four lights,
among the four layers of the stars.
The world was not lighted;
there was neither day nor night nor moon.
Then they perceived that the world was being
created.
Then creation dawned upon the world.[2]

2. This Newly Created World (Winnebago)

Pleasant it looked,
this newly created world.
Along the entire length and breadth
of the earth, our grandmother,
extended the green reflection
of her covering
and the escaping odors
were pleasant to inhale.[3]

3. Creation Story (Guatemalan)

The heaven was formed, and its boundaries fixed toward the four winds by the Creator and Former — the Mother and Father of all living things — he by whom all move, the father and cherisher of the peace of men, whose wisdom has planned all things.

There was yet no man, nor any animal, nor bird, nor fish, nor green herb, nor any tree. The face of the earth was not yet seen, only the peaceful sea and the space of heaven. Nothing was joined together, nothing clung to anything else, nothing balanced itself, there was no sound. Nothing existed but the sea, calm and alone, immobility and silence, darkness and night.

Alone was the Creator, the Former, and the feathered serpent, enveloped in green and blue, their name Gu-cu-matz, or Feathered Serpent. They are the heart of heaven. They spake together and consulted, mingling their thoughts. They said 'Earth,' and earth came, like a cloud or fog. Then the mountains arose, and the trees appeared, and Gu-cu-matz was filled with joy, saying 'Blessed by thy coming, O Heart of Heaven! our work is done!'[4]

4. The Hymn of Creation (Hindu)

Hinduism is the parent religion of Buddhism, a dominant part of the cultural heritage of many Asian Americans.

> At that time there was neither nonexistence nor existence; neither the worlds nor the sky, nor anything that is beyond. What covered everything, and where, and for whose enjoyment? Was there water, unfathomable and deep? Death was not there, nor immortality; no knowing of night or day. That One Thing breathed without air, by its own strength; apart from it nothing existed.
>
> Darkness there was, wrapped in yet more darkness; undistinguished, all this was one water; the incipient lay covered by void. That One Thing became creative by the power of its own contemplation. There came upon it, at first, desire which was the prime seed of the mind, and men of vision, searching in their heart with their intellect, found the link to the existent in the nonexistent. . . There were begetters, there were mighty forces, free action here and energy up yonder. . .
>
> The gods are later than this creative activity; who knows, then, from where this came into being? Where this creation came from, whether one supported it or not, He who was supervising it from the highest heaven, He indeed knows; or He knows not!
>
> Rig Veda X 129,[5]

The western Europeans who began migrating to North America after 1492 had a world-view conditioned by the account of the creation of the world and the fall of man found in the Hebrew Scriptures, which were part of the Christian Bible. To cite these traditions is not intentionally to ignore the influence of other pre-Christian literature, nor the many-faceted, intervening European experience, but rather to account for what was a basic belief in most of European culture.

5. Creation (Hebrew)

In the beginning God created the heaven and the earth. And the earth was without form, and void; and darkness was upon the face of the deep. And the Spirit of God moved upon the face of the waters. And God said, Let there be light: and there was light. And God saw the light, that it was good: and God divided the light from the darkness. And God called the light Day, and the darkness he called Night. And the evening and the morning were the first day.

And God said, Let there be a firmament in the midst of the waters, and let it divide the waters from the waters. And God made the firmament and divided the waters which were under the firmament from the waters which were above the firmament: and it was so. And God called the firmament Heaven. And the evening and the morning were the second day.

And God said, Let the waters under the heaven be gathered together unto one place, and let the dry land appear: and it was so. And God called the dry land Earth; and the gathering together of the waters called the Seas: and God saw that it was good. And God said, Let the earth bring forth grass, the herb yielding seed, and the fruit tree yielding fruit after his kind, whose seed is in itself, upon the earth: and it was so. And the earth brought forth grass, and herb yielding seed after his kind, and the tree yielding fruit, whose seed was in itself, after his kind: and God saw that it was good. And the evening and the morning were the third day.

And God said, Let there be lights in the firmament of the heaven to divide the day from the night; and let them be for signs, and for seasons, and for days, and years: And let them be for lights in the firmament of the heaven to give light upon the earth: and it was so. And God made two great lights; the greater light to rule the day, and the lesser light to rule the night: he made the stars also. And God set them in the firmament of the heaven to give light upon the earth. And to rule over the day and over the night, and to divide the light from the darkness: and God saw that it was good. And the evening and the morning were the fourth day.

And God said, Let the waters bring forth abundantly the moving creature that hath life, and fowl that may fly above the earth in the open firmament of heaven. And God created great whales, and every living creature that moveth, which the waters brought forth abundantly, after their kind, and every winged fowl after his kind: and God saw that it was good. And God blessed them, saying, Be fruitful, and multiply, and fill the waters in the seas, and let fowl multiply in the earth. And evening and the morning were the fifth day.

And God said, Let the earth bring forth the living creature after his kind, cattle, and creeping thing, and beast of the earth after his kind: and it was so. And God made the beast of the earth after his kind, and cattle after their kind, and everything that creepeth upon the earth after his kind: and God saw that it was good.

And God said, Let us make man in our image, after our likeness: and let them have dominion over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth. So God created man in his own image, in the image of God created he him; male and male created he them. And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth, and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth.

And God said, Behold, I have given you every herb bearing seed, which is upon the face of all the earth, and every tree, in the which is the fruit of a tree yielding seed; to you it shall be for meat. And to every beast of the earth, and to every fowl of the air, and to every thing that creepeth upon the earth, wherein there is life, I have given every green herb for meat: and it was so. And God saw every thing that he had made, and, behold, it was very good. And the evening and the morning were the sixth day.

Thus the heavens and the earth were finished, and all the host of them. And on the seventh day God ended his work which he had made; and he rested on the seventh day from all his work which he had made. And God blessed the seventh day, and sanctified it: because that in it he had rested from all his work which God created and made.

Genesis 1-2:3[6]

6. Creation (Muslim)

God it is Who created the heavens and the earth, and that which is between them, in six Days. Then He mounted the throne. Ye have not, beside Him, a protecting friend or mediator. Will ye not then remember? He directeth the ordinance from the heaven unto the earth; then it ascendeth unto Him in a Day, whereof the measure is a thousand years of that ye reckon. Such is the Knower of the invisible and the visible, the Mighty, the Merciful, who made all things good which He created, and He began the creation of man from clay; then He made his seed from a draught of despised fluid; then He fashioned him and breathed into him of His spirit; and appointed for you hearing and sight and hearts. Small thanks give ye!

Koran, Surah XXXII

God it is who raised up the heavens without visible supports, then mounted the Throne, and compelled the sun and the moon to be of service, each runneth unto an appointed term; He ordereth the course; He detaileth the revelations, that haply ye may be certain of the meeting with your Lord. And He it is who spread out the earth and placed therein firm hills and flowing streams, and of all fruits he placed therein two spouses (male and female). He covereth the night with the day. Lo! herein verily are portents for people who take thought.

Koran, Surah XIII[7]

7. In the Beginning (Greek)

First verily was created Chaos, and then broad-bosomed Earth, the first habitation unshaken forever of all the deathless gods who keep the top of snowy Olympus, and misty Tartarus within the wide-wayed Earth, and Love (Eros) which is the fairest among the deathless gods: which looseth the limbs and overcometh within the breasts of all gods and all men their mind and counsel wise.

From Chaos sprang Erebus and black Night: and from Night in turn sprang Bright Sky and Day whom Night conceived and bare after loving union with Erebus.

And Earth first bare the starry Heaven, of equal stature to herself, that he might cover her utterly about, to the end that there might be for the blessed gods on habitation stedfast forever. And she bare the lofty Hills, the pleasant haunts of the goddess Nymphs which dwell among the gladed Hills. And she bare the unharvested deep with raging flood, even the Sea. . . [8]

8. Song of Praise to the Creator (Sotho)

The Sotho, a Bantu people in the high grasslands of southern Africa, acknowledge a Creator-God who is holy, omnipresent, omniscient, beautiful, present in human history yet Lord of eternity past and eternity future.[9]

Invocation

Perfection ever rising to perfection,
The man who fashioned mountains and rocks!
Purity Immaculate,
Wood white and unblemished.

Guardian of nation upon nation,
Lone creator of firmament and horizon!

Origin of nation upon nation!
Even before birth the King!

The one of there! The one of here!
The one of here! The one of there!
The one everywhere, above and below!
The knower of all!
The beautiful, knower of the innermost!
Lord of wisdom, above and below!
The depth too deep for the measure stick.

Lord of heaven's vault!
Lord of that which endeth not! Lord of
  the everlasting!
The rock which has withstood the fire!
Lord of that which endeth not, both the
  going out and the coming back.[10]
(Translator: G.H. Franz)

9. The Creation of the World

Kabezya-Mpungu, the highest god, had created the sky and the earth and two human beings, a man and a woman, endowed with Reason. However, these two human beings did not, as yet, possess Mutima, or Heart.,

Kabezya-Mpungu had four children, the Sun, the Moon, Darkness, and Rain. He called them all together and said to them, "I want to withdraw now, so that Man can no longer see me. I will send down Mutima in my place, but before I take leave I want to know what you, Rain, are going to do. "Oh," replied Rain, I think I'll pour down without cease and put everything under water." "No," answered the god, "don't do that! Look at these two," and he pointed to the man and the woman; "do you think they can live under water? You'd better take turns with the Sun. After you have sufficiently watered the earth, let the Sun go to work and dry it."

"And how are you going to conduct yourself?" the god asked the Sun. "I intend to shine hotly and burn everything under me," said his second child.

"No," replied Kabezya-Mpungu. "That cannot be. How do you expect the people whom I created to get food? When you have warmed the earth for a while, give Rain a chance to refresh it and make the fruit grow."

"And you, Darkness, what are your plans?"

"I intend to rule forever!" was the answer.

"Have pity," cried the god. "Do you want to condemn my creatures, the lions, the tigers, and the serpents, to see nothing of the world I made? Listen to me: give the Moon time to shine on the earth, and when you see the Moon in its last quarter, then you may again rule. But I have lingered too long; now I must go." And he disappeared.

Somewhat later, Mutima, Heart, came along, in a small container no bigger than the hand.

Heart was crying, and asked Sun, Moon, Darkness and Rain, "Where is Kabezya-Mpungu, our father?"

"Father is gone," they said, "and we do not know where."

"Oh, how great is my desire," replied Heart, "to commune with him. But since I cannot find him I will enter into Man, and through him I will seek God from generation to generation."

And that is what happened. Ever since, all children born of Man contain Mutima, a longing for God.[11]

10. Yang and Yin (Chinese)

Before the beginning of days — before the earth was formed or the sky — there was Tao, the Great Original Cause. All things came from Tao and on Tao all depend.

Tao reached everywhere. Tao was smaller than the smallest and greater than the greatest.

In Tao was the power to change all things.

So it came about that Tao brought into being the two elements, the Yang and the Yin.

Just what the Yang and the Yin are it is hard to explain, for no one can see either one of them.

Whatever they are, they are very important, since from these two powers all else has come.

The Yang and the Yin are the opposites of each other.

The Yang is like man. The Yin is like woman.

The Yang is active. The Yin is at rest.

The Yang is like the day. The Yin is like the night.

The Yang is like the summer. The Yin is like the winter.

The Yang is like the sky. The Yin is like the earth.

The Yang is like a blossoming flower. The Yin like the fading leaf.

The Yang is like being born. The Yin is like dying.

The Yang is not better than the Yin. Nor is the Yin better than the Yang. They are both good.[12]

B. ORIGIN OF HUMAN KNOWLEDGE

In some societies there are traditions about the origin of man's knowledge. In the Hebrew account of the "Tree of Knowledge" in the garden of Eden, as well as in the Greek story of Prometheus, there is a relationship between the possession of knowledge and the experiences of evil. In both accounts it is a woman who is the unwitting agent through whom trouble enters human life.

1. The Tree of Knowledge of Good and Evil (Hebrew)

> And the Lord God planted a garden eastward in Eden; and there he put the man whom he had formed. And out of the ground made the Lord God to grow every tree that is pleasant to the sight, and good for food; the tree of life also in the midst of the garden, and the tree of knowledge of good and evil.
>
> Genesis 2: 8,9

> And the serpent said unto the woman, Ye shall not surely die: For God doth know that in the day ye eat thereof, then your eyes shall be opened, and ye shall be as gods, knowing good and evil. And the woman saw that the tree was good for food, and that it was pleasant to the eyes, and a tree to be desired to make one wise, she took of the fruit thereof, and did eat, and gave also unto her husband with her; and he did eat.
>
> Genesis 3: 4, 5, 6

> And the Lord God called unto Adam, and said unto him, Where art thou? And he said, I heard thy voice in the garden, and I was afraid, because I was naked; and I hid myself. And he said, Who told thee that thou wast naked? Hast thou eaten of the tree, whereof I commanded thee that thou shouldest not eat?
>
> Genesis 3: 9, 10, 11

> And unto Adam he said, Because thou hast hearkened unto the voice of thy wife, and hast eaten of the tree, of which I commanded thee, saying, Thou shalt not eat of it: cursed is the ground for thy sake; in sorrow shalt thou eat of it all the days of they life; Thorns also and thistles shall it bring forth to thee; and thou shalt eat the herb of the field; in the sweat of thy face shalt thou eat bread, till thou return unto the ground; for out of it wast thou taken: for dust thou art, and unto dust shalt thou return.
>
> Genesis 3: 17, 18, 19, 20[13]

2. Prometheus and Pandora (Greek)

> But a nobler animal was wanted, and Man was made. It is not known whether the creator made him of divine materials, or whether in the earth, so lately separated from heaven, there lurked still some heavenly seeds. Prometheus took some of this earth, and kneading it up with water, made man in the image of the gods. He gave him an upright stature, so that while all other animals turn their faces downward, and look to the earth, he raises his to heaven, and gazes on the stars.
>
> Prometheus was one of the Titans, a gigantic race, who inhabitated the earth before the creation of man. To him and his brother Epimetheus was committed the office of making man, and providing him and all other animals with the faculties necessary for their preservation. Epimetheus undertook to do this, and Prometheus was to overlook his work, when it was done. Epimetheus accordingly proceeded to bestow upon the different animals the various gifts of courage, strength, swiftness, sagacity; wings to one, claws to another, a shelly covering to a third, etc. But when man came to be provided for, who was to be superior to all other animals, Epimetheus had been so prodigal of his resources that he had nothing left to bestow upon him. In his perplexity he resorted to his brother Prometheus, who, with the aid of Minerva, went up to heaven, and lighted his torch at the chariot of the sun, and brought down fire to man. With this gift man was more than a match for all other animals. It enabled him to make weapons wherewith to subdue them; tools with which to cultivate the earth; to warm his dwelling, so as to be comparatively independent of climate; and finally to introduce the arts and to coin money, the means of trade and commerce.
>
> Woman was not yet made. The story is that Jupiter made her, and sent her to Prometheus and his brother, to punish them for their presumption in stealing fire from heaven; and man, for accepting the gift. The first woman was named Pandora. She was made in heaven, every god contributing something to perfect her. Venus gave her beauty, Mercury persuasion, Apollo music, etc. Thus equipped, she was conveyed to earth, and presented to Epimetheus, who gladly accepted her, though cautioned by his brother to beware of Jupiter and his gifts. Epimetheus had in his house a jar, in which were kept certain noxious articles, for which, in fitting man for his new abode, he had had no occasion. Pandora was seized with an eager curiosity to know what this jar contained; and one day she slipped off the cover and looked in. Forthwith there escaped a multitude of plagues from hapless man, — such as gout, rheumatism, and colic for his body, and envy, spite, and revenge for his mind, — and scattered themselves far and wide. Pandora hastened to replace the lid! but alas! the whole contents of the jar had escaped, one thing only excepted, which lay at the bottom, and that was

hope. So we see at this day, whatever evils are abroad, hope never entirely leaves us; and while we have that, no amount of other ills can make us competely wretched. . . [14]

3. How Wisdom Came to Man (Ashanti)

Once long ago among the Ashanti people of the old Gold Coast in West Africa, lived Anansi, the spider. He knew everything. He was the wisest one in all the world. "The wisdom of the spider is greater than that of all the world put together," is an old Ashanti proverb.

People used to come to Anansi for advice. They came for help. They used to ask questions, and Anansi knew all the answers.

One day the people offended him in some way, and Anansi decided to hide his wisdom from them and keep it for himself. He even went around picking up the bits he had already given away here and there.

When he had it all together, all the wisdom in the world, he put it in a pot and fixed the lid on tight. Then he hung the pot around his neck, so that it hung down in front of him, and walked off into the forest far from the village. He picked out the highest palm tree he could find and decided to hang the pot in the top of it.

No one could find it there, he thought.

But when he started to climb the tree, the pot hanging from his neck swung between him and the tree, and he slipped down.

He tried again. He climbed halfway up, but again the pot swung in front of him and he slid back.

Again and again he climbed and slipped, climbed and slipped. But every time the pot hindered him and he could not climb the tree.

It happened just then that Anansi's little son came walking through the forest and saw his father trying to climb the tree with the pot. He watched a while and then called out, "Why don't you hang the pot down your back?"

"That's wisdom!" said Anansi. "I thought I had it all in the pot."

He was so angry that he hurled the pot to the ground. It smashed to bits on a rock, and the wisdom in it got out and flew all over the world.[15]

II. SOCIAL ORDER: IDEALS OF HUMAN BEHAVIOR AND GOVERNMENT

For societies that have no ancient written documents, there are oral traditions that have now been recorded, and there are the reflections of older members of the societies, and the observations of early travellers. Keeping in mind the subjective limitations of this kind of material, one could also observe that written documents may also be undependable, because the actual behavior of human beings is so frequently in contrast to what written scriptures and documents proclaim as ideal.

A. AMERICAN INDIAN VALUES AND TRADITIONS

1. Meditation

The man who sat on the ground in his tipi meditating on life and its meaning, accepting the kinship of all creatures and acknowledging unity with the universe of things was infusing into his being the true essence of civilization. And when native man left off this form of development, his humanization was retarded in growth.

Chief Luther Standing Bear[16]

2. We Thank You

We thank you for coming here to talk to us in a way we can understand. It is the first time anyone has done so. You ask us to think what place we like next best to this place, where we always lived. You see the graveyard out there? There are our fathers and our grandfathers. You see that Eagle-nest mountain and that Rabbit-hole mountain? When God made them, He gave us this place. We have always been here. We do not care for any other place . . . We have always lived here. We would rather die here. Our fathers did. We cannot leave them. Our children were born here — How can we go away? If you give us the best place in the world, it is not so good for us as this . . . This is our home. . . We cannot live anywhere else. We were born here and our fathers are buried here. . . We want this place and not any other. . .

There is no other place for us. We do not want you to buy any other place. If you will not buy this place, we will go into the mountains like quail, and die there, the old people, and the women and children. Let the Government be glad and proud. It can kill us. We do not fight. We do what it says. If we cannot live here, we want to go into the mountains and die. We do not want any other home.

Cecilio Blacktooth[17]

3. The Cycles of Life

You have noticed that everything an Indian does is in circle, and that is because the Power of the World always works in circles, and everything tries to be round. In the old days when we were a strong and happy people, all our power came to us from the sacred hoop of the nation and so long as the hoop was unbroken the people flourished. The flowering tree was the living center of the hoop, and the circle of the four quarters nourished it. The east gave peace and light, the south gave warmth, the west gave rain, and the north with its cold and mighty wind gave strength and endurance. This knowledge came to us from the outer world with our religion. Everything the Power of the World does is done in a circle. The Sky is round and I have heard that the earth is round like a ball and so are all the stars. The Wind, in its greatest power, whirls. Birds make their nests in circles, for theirs is the same religion as ours. The sun comes forth and goes down again in a circle. The moon does the same, and both are round.

Even the seasons form a great circle in their changing, and always come back again to where they were. The life of a man is a circle from childhood to childhood and so it is in everything where power moves. Our tipis were round like the nests of birds and these were always set in a circle, the nation's hoop, a nest of many nests where the Great Spirit meant for us to hatch our children.

Black Elk, Oglala Sioux (Teton Dakota) 1930[18]

4. Prayer

In the life of the Indian there was only one inevitable duty — the duty of prayer — the daily recognition of the Unseen and Eternal. His daily devotions were more necessary to him than daily food. He wakes at daybreak, puts on his moccasins and steps down to the water's edge. Here he throws handfuls of clear, cold water into his face, or plunges in bodily. After the bath, he stands erect before the advancing dawn, facing the sun as it dances upon the horizon, and offers his unspoken orison. His mate may precede or follow him in his devotions, but never accompanies him. Each soul must meet the morning sun, the new sweet earth and the Great Silence alone!

Whenever, in the course of the daily hunt the red hunter comes upon a scene that is strikingly beautiful or sublime -- a black thundercloud with the rainbow's glowing arch above the mountain, a white waterfall in the heart of a green gorge, a vast prairie tinged with the blood-red of sunset — he pauses for an instant in the attitude of worship. He sees no need for setting apart one day in seven as a holy day, since to him all days are God's.

Ohiyesa (Santee Dakota) 1911[19]

5. Minimal Government

. . . Their only controls are their manners, and the moral sense of right and wrong, which, like the sense of tasting and feeling, in every man makes a part of his nature. An offense against these is punished by contempt, by exclusion from society, or, where the case is serious, as that of murder, by the individuals whom it concerns. Imperfect as this species of coercion may seem, crimes are very rare among them: insomuch that were it made a question, whether no law, as among the savage Americans, or too much law, as among the civilized Europeans, submits man to the greatest evil, one who has seen both conditions of existence would pronounce it to be the last: and that the sheep are happier of themselves, than under the care of the wolves. It will be said, that great societies cannot exist without government. The Savages therefore break them up into small ones.

Thomas Jefferson, 1787[20]

I am convinced that those societies (as the Indians) which live without government, enjoy in their general mass an infinitely greater degree of happiness than those who live under the European governments. Among the former, public opinion is in the place of law, and restrains morals as powerfully as laws ever did anywhere. Among the latter, under the pretence of governing, they have divided their nations into two classes, wolves and sheep.

Thomas Jefferson, 1787[21]

They love justice and hate violence and robbery, a thing really remarkable in men who have neither laws nor magistrates: for among them each man is his own master and his own protector. They have Sagamores, that is, leaders in war; but their authority is most precarious, if, indeed, that may be called authority to which obedience is in no wise obligatory. The Indians follow them through the persuasion of example or custom, or of ties of kindred and alliance. . .

Pierre Biard, 1612[22]

6. Reality of the Spiritual World (Dwamish)

. . . Our dead never forget the beautiful world that gave them being. . . When the last Red Man shall have perished, and the memory of my tribe shall have become a myth among the white man, these shores will swarm with the invisible dead of my tribe, and when your children's children think themselves alone in the field, the store, the shop, or in the silence of the pathless woods, they will not be alone. . . At night when the streets of your cities and villages are silent and you think them deserted, they will throng with the returning hosts that once filled them and still love this beautiful land. The White Man will never be alone.

Let him be just and deal kindly with my people, for the dead are not powerless. Dead — I say? There is no death. Only a change of worlds.

Chief Seattle, 1855[13]

B. WEST AFRICAN LOCAL GOVERNMENT

The example here is selected from West Africa because that is the region from which most Africans were brought to America. It is recognized that highly organized civilizations existed at different times in various parts of Africa, and also that the first Africans to come to America were members of the Spanish and Portuguese crews on the voyages of discovery and exploration.

For cultures without writing, the investigator is dependent on reports of first-hand observers, and on oral literature. It has been called particularly ironical that "simplicity and crudity" should have been emphasized in descriptions of subSaharan Africa[14] when actually there were stable dynasties, orderly processes of law, specialists in defense. Local government in an African community is illustrated entertainingly in the following folk tale from Nigeria:

1. Olomu's Bush Rat (Nigeria)

There was a chief. His name was Olomu. In memory of him there is a saying:

"The smell of the bush rat
Is stronger than words."

It is said that once Olomu was traveling from one town to another. He was hungry, because in the night hyenas had come and eaten his food. Olomu's friends and servants went into the bush to find game. While he waited, he moved this way and that, and he came upon a trap in which a bush rat had been caught. He took the bush rat from the trap, thinking how good it would taste. He did not notice a poor country man, the owner of the trap, standing nearby. Olomu returned to his camp. He heard his servants and friends coming back. He was ashamed to be seen with game taken from a trap belonging to another man, and he quickly hid the bush rat under his cap. The servants brought meat. They prepared it for the chief. He ate.

Olomu continued his journey. The poor man from whose trap the bush rat had been taken came also. He walked behind Olomu's party singing this song:

"Life is hard.
Poverty oppresses me.
Now a new disaster comes.
I found one cowry.
I spent it to buy a trap.
My trap caught a bush rat.
Olomu came and removed my bush rat
Olomu is a thief."

Olomu's servants and followers were surprised. They became angry. They threatened the country man. But he would not remain quiet. Olomu did not look to the left or the right. He was ashamed. The country man followed him, singing the song over and over again. When they passed people on the road, he sang more loudly so that they would hear. Olomu, his servants, and his followers arrived at the town. The country man was still singing. When he was scolded by Olomu's soldiers, he paid no attention. He went on singing. The town was in an uproar. Everyone was talking about the matter. The underchiefs came together. They said: "This country fellow is trying to ruin the chief's reputation. He should be punished." Others said: "It is so. But he has made an accusation. It must be looked into." So they went to the country man, saying: "We have heard what you are saying. Remain quiet now. We will look into it. There will be justice. If what you say is true, it shall fall on Olomu. If it is false, it shall fall on you. The words you have said are grave. If you lie, you shall be beaten and thrown into the bush."

So at least the country man was silent. He waited. But in the town other people began to sing the song he had composed. The underchiefs ordered guards to watch Olomu wherever he went, so that the bush rat might be found. When Olomu entered his house to sleep, the guards came with him. He did not know what to do with the bush rat. He left it where it was, on his head, and he slept with his cap on. In the morning he arose and went out. He could not take a breath without smelling the bush rat.

Seven days went by. The underchiefs called a council, and they sent for Olomu. He came. He sat down in his place.

They questioned him. He said: "I am Olomu, the chief. Who dares say that I am a thief? Whoever says it, he is a scoundrel. Perhaps he is mad. Whenever has a paramount chief stolen? And whenever has he taken such a thing as a bush rat?" As he talked, the smell of decaying meat spread through the council. The underchiefs stopped asking questions. They stopped listening to Olomu. At last they ordered the guards to search him. One of the guards removed Olomu's cap. There, on top of Olomu's bald head, was the dead bush rat.

Olomu was ashamed. He got up; he walked away into the bush. He did not return, for the disgrace was too great. The country man was sent for. When he arrived, they paid him from what was in Olomu's house for the loss of his bush rat. They selected a new paramount chief. What happened was not forgotten, for people everywhere knew the song the country man had sung. And there came to be a saying "The smell of the bush rat is stronger than words."[25]

C. CHINESE ETHICAL PHILOSOPHY

1. Of Men and Government

The Master said, "He who exercises government by means of his virtue may be compared to the north polar star which keeps its place and all the stars turn towards it.

If the people be led by laws, and uniformity sought to be given them by punishment, they will try to avoid the punishment, but have no sense of shame. If they be led by virtue, and uniformity sought to be given them by the rules of propriety, they will have the sense of shame, and moreover will become good. . ."

Confucius[26]

2. There Are Different Ways of Killing

King Hui of Liang said, "I wish quietly to receive your instructions."

Mencius replied, "Is there any difference between killing a man with a stick and with a sword?"

The king said, "There is no difference."

"Is there any difference between doing it with a sword and with the style of government?"

"There is no difference," was the reply.

Mencius then said, "In your kitchen there is fat meat; in your stables there are fat horses. But your people have the look of hunger, and on the wilds there are those who have died of famine. This is leading on beasts to devour men. Beasts devour one another, and men hate them for doing so. When a prince, being the parent of his people, administers his government so as to be chargeable with leading on beasts to devour men, where is that parental relation to the people?"

Confucius[27]

3. Confucius in Conversations with Various Men

'Tzu-lu asked about serving the spirits of the dead. The Master said, 'While you are not able to serve men, how can you serve their spirits?' Tzu-lu added, 'I venture to ask about death?' He was answered, "While you do not know life, how can you know about death?". . ."

Confucius[28]

4. Goodness

The Master said, "It is Goodness that gives to a neighborhood its beauty. One who is free to choose, yet does not prefer to dwell among the Good — how can he be accorded the name of wise?. . ."

Confucius[29]

D. JUDAEO-CHRISTIAN ETHICS

1. The Ten Commandments

In the sacred writings of the Hebrews, which are also accepted as sacred by Christians, the Ten Commandments illustrate a basic tenet, that devotion to God and ethical behavior are not to be separated. Religion and morals are one.

And God spake all these words, saying, I am the Lord thy God, which have brought thee out of the land of Egypt, out of the house of bondage.

Thou shalt have no other gods before me. Thou shalt not make unto thee any graven image, or any likeness of anything that is in heaven above, or that is in the earth beneath, or that is in the water under the earth: Thou shalt not bow down thyself to them, nor serve them: for I the Lord thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me; And showing mercy unto thousands of them that love me, and keep my commandments.

Thou shalt not take the name of the Lord thy God in vain; for the Lord will not hold him guiltless that taketh his name in vain.

Remember the sabbath day, to keep it holy. Six days shalt thou labour, and do all thy work: But the seventh day is the sabbath of the Lord thy God; in it thou shalt not do any work. . .

Honor thy father and thy mother: that thy days may be long upon the land which the Lord thy God giveth thee.

Thou shalt not kill.

Thou shalt not commit adultery.

Thou shalt not steal.

Thou shalt not bear false witness against thy neighbor.

Thou shalt not covet thy neighbor's house, thou shalt not covet thy neighbor's wife, nor his manservant, nor his maidservant, nor his ox, nor his ass, nor anything that is thy neighbor's.

Exodus 20: 1-17, King James Version[30]

2. Man's Requirement

He hath showed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?

Micah 6:8, King James Version[31]

3. The Golden Rule

Therefore all that you wish men to do to you, even so do you also to them; for this is the Law of the Prophets.

Matthew 7:12, Confraternity Version[32]

4. The Great Commandment

And one of them, a doctor of the Law, putting him to the test, asked him, "Master, which is the great commandment in the capital law?" Jesus said to him, "Thou shalt love the Lord thy God with thy whole heart, and with thy whole soul and with thy whole mind. This is the greatest and first commandment. And the second is like it, Thou shalt love thy neighbor as thyself. On these two commandments depend the whole capital law and the capital prophets."

Matthew 22: 35-40 Confraternity Version[33]

5. A New Standard

You have heard that it was said, "An eye for an eye and a tooth for a tooth." But I say to you, Do not resist one who is evil. But if any one strikes you on the right cheek, turn to him the other also; and if any one would sue you and take your coat, let him have your cloak as well; and if any one forces you to go one mile, go with him two miles. Give to him who begs from you, and do not refuse him who would borrow from you. You have heard that it was said, "You shall love your neighbor and hate your enemy." But I say to you, "Love your enemies and pray for those who persecute you, so that you may be sons of your Father who is in heaven; for he makes his sun rise on the evil and on the unjust. For if you love those who love you, what reward have you? Do not even the Gentiles do the same? You, therefore, must be perfect, as your heavenly Father is perfect."

Matthew 5: 38-48, Revised Standard Version[34]

E. ENGLISH LAW AND POLITICAL THOUGHT

1. The Magna Carta

The English brought to America a heritage of freedom that dated back to 1215, when the barons of England and Wales wrested privileges from the crown which were to prepare the way for enlargement of self-government for all Englishmen. Selections from the document follow:

Summary	Quotation
Prologue	John, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, Count of Anjou, to the archbishops, bishops, abbots, earls, barons, justiciars, forsters, sheriffs, stewards, servants and all his officials and faithful subjects, greeting. Know that we, from reverence for God and for the salvation of our soul and those of all our ancestors and heirs, for the honour of God and the exaltation of Holy Church and the reform of our realm,...
Freedom of the church	In the first place have granted to God and by this our present Charter have confirmed, for us and our heirs in perpetuity, that the English church shall be free, and shall have its rights undiminished and its liberties unimpaired;...
Protections for widows	Heirs shall be given in marriage without desparagement, yet so that before marriage is contracted it shall be made known to the heir's next of kin. After her husband's death, a widow shall have her marriage portion and her inheritance at once and without any hindrance;...
No taxation without presence of all of the Great Council (representation)	No scutage or aid is to be in our realm except by the common counsel of our realm, . . .
Protection from demands for undue service.	No man shall be compelled to perform more service for a knight's fee or for any other free tenement than is due therefrom . . .
No unusual fines or punishments.	A free man shall not be amerced for a trivial offense, except in accordance with the degree of the offense; and for a serious offense he shall be amerced according to its gravity, . . .
No royal seizure of goods	No sheriff or bailiff of ours or anyone else is to take horses or carts of any free man for carting without his agreement. Neither

we nor our bailiffs shall take other men's timber for castles or other work of our, without the agreement of the owner . . .

No freeman to be imprisoned without due process of law, and judgment of his peers

Henceforth no bailiff shall put anyone on trial by his own unsupported allegation, without bringing credible witnesses to the charge. No free man shall be taken or imprisoned or disseised or outlawed or exiled or in any way ruined, nor will we go or send against him, except by the lawful judgment of his peers or by the law of the land. To no one will we sell, to no one will we deny or delay right of justice . . .

Permanent committee of the ruling class to act as watchdog group to see that terms of the Great Charter are met

Since moreover, we have granted all aforesaid things to God, for the reform of our realm and the better settling of the quarrel which has arisen between us and our barons, and since we wish these things to be enjoyed fully and understood, we give and grant them the following security; namely, that the barons shall choose any twenty-five barons of the realm they wish, who are with all their might to observe, maintain and cause to be observed the peace and liberties which we have granted and confirmed to them by this our present charter;. . .[38]

2. The Writings of John Locke

The authors of political documents in colonial America were Englishmen who were acutely aware of their rights, and there was good reason. The century which had seen the establishment of the English colonies was the same century that had seen the presentation of the Petition of Right to an English king who literally lost his head for ignoring it. It had been the time of Oliver Cromwell, the Puritans, and John Milton. In 1689 the English Bill of Rights had established constitutional law, and limited the prerogatives of the crown, thus effecting the bloodless, "Glorious Revolution." And it was the century when John Locke published his *Essay Concerning Human Understanding, Two Treatises On Government*, and *A Letter Concerning Toleration*, which were studied in the fledgling colleges of colonial America. In 1776, when Thomas Jefferson penned the "self-evident" truths of the Preamble to the Declaration of Independence, he wrote as a disciple of John Locke.

The following selections illustrate his philosophy of government:

> Wherever, therefore, any number of men so unite into one society, as to quit every one his executive power of the law of nature, and to resign it to the public, there, and there only, is a political, or civil society. And this is done wherever any number of men, in that state of nature, enter into society to make one people, one body politic, under one supreme government, or else when any one joins himself to, and incorporates with, any government already made. For hereby he authorizes the society, or which is all one, the legislative thereof, to make laws for him, as the public good of the society shall require, to the execution whereof his own assistance (as to his own decrees) is due. And this puts men out of a state of nature into that of a commonwealth, by setting up a judge on earth with authority to determine all the controversies and redress the injuries that may happen to any member of the commonwealth; which judge is the legislative, or magistrates appointed by it.
>
> And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation to every one of that society, to submit to the determination of the majority, and to be concluded by it; or else this original compact, whereby he with others incorporates into one society, would signify nothing, and be no compact, if he be left free and under no other ties than he was in before in the state of nature.
>
> Secondly, The power of punishing he wholly gives up, and engages his natural force (which he might before employ in the execution of the law of nature, by his own single authority as he thought fit), to assist the executive power of the society, as the law thereof shall require. For being now in a new state, wherein he is to enjoy many conveniences, from the labour, assistance, and society of others in the same community, as well as protection from its whole strength; he has to part also with as much of his natural liberty, in providing for himself, as the good, prosperity and safety of the society shall require; which is not only necessary but just, since the other members of the society do the like.

In *A Letter Concerning Toleration* he laid down principles of religious liberty:

> . . . Secondly, no private person has any right in any manner to prejudice another person in his civil enjoyments because he is of another church or religion. All the rights and franchises that belong to him as a man, or as a denizen, are

inviolably to be preserved to him. These are not the business of religion. No violence nor injury is to be offered him, whether he be Christian or Pagan. Nay, we must not content ourselves with the narrow measures of bare justice; charity, bounty, and liberality must be added to it. This the Gospel enjoins, this reason directs, and this that natural fellowship we are born into requires of us. If any man err from the right way, it is his own misfortune, no injury to thee; nor therefore art thou to punish him in the things of this life because thou supposest he will be miserable in that which is to come . . .

. . . And it is also evident what liberty remains to man in reference to their eternal salvation, and that is, that every one should do what he in his conscience is persuaded to be acceptable to the Almighty, on whose good pleasure and acceptance depends their eternal happiness. For obedience is due, in the first place, to God, and afterwards to the laws.

3. From Milton's Areopagitica

I do not deny but that it is of the greatest concernment in the church and commonwealth, to have a vigilant eye how books demean themselves as well as men; and thereafter to confine, imprison, and do sharpest justice on them as malefactors: for books are not absolutely dead things, but do contain a potency of life in them to be as active as that soul was whose progeny they are; nay, they do preserve as in a vial the purest efficacy and extraction of that living intellect that bred them. I know they are as lively, and as vigorously productive, as those fabulous dragon's teeth; and being sown up and down, may chance to spring up armed men. And yet, on the other hand, unless wariness be used, as good almost kill a man as kill a good book: who kills a man kills a reasonable creature, God's image; but he who destroys a good book, kills reason itself, kills the image of God, as it were, in the eye. Many a man lives a burden to the earth; but a good book is the precious life-blood of a master-spirit, embalmed and treasured up on purpose to a life beyond life.

. . . if learned men be the first receivers out of books and dispreaders both of vice and error, how shall the licensers themselves above all others be confided in, unless we can confer upon them, or they assume to themselves above all others in the land, the grace of infallibility and uncorruptedness? And again, if it be true that a wise man like a good refiner can gather gold out of the drossiest volume, and that a fool will be a fool with the best book, yea, or without book, there is no reason that we should deprive a man of any advantage to his wisdom, while we seek to restrain from a fool that which being restrained will be no hindrance to his folly. . . a wise man will make better use of an idle pamphlet than a fool will do of sacred Scripture.

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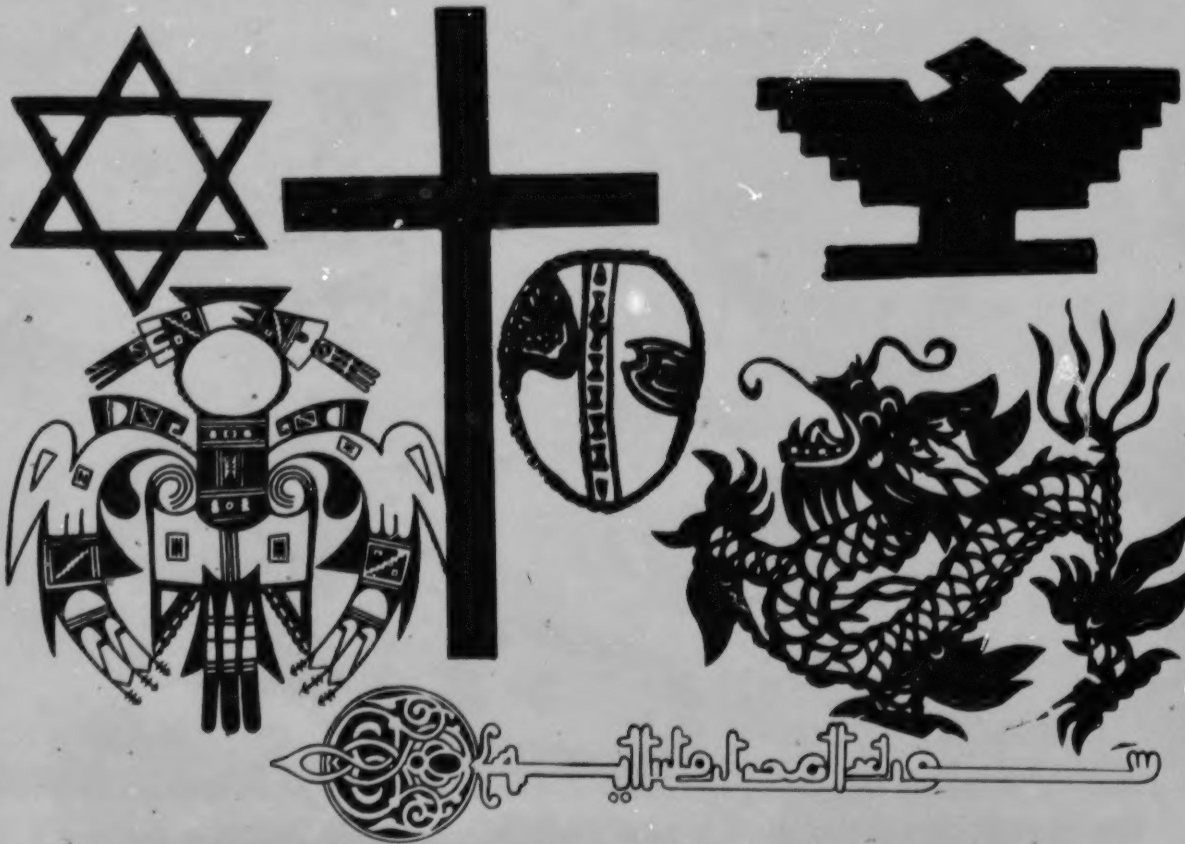

Chapter I
European Colonization of North America, 1492-1770

INTRODUCTION

From 1492, when the native inhabitants of a tiny island in the Caribbean Sea discovered Columbus on their shores, until the conclusion of the 19th century, there was an unceasing conflict among a number of nations for the control of North America. This chapter will cover only that part which occurred before 1776. It was a three-fold conflict: one with the native peoples, another among the invaders themselves, and a third which had existed between native groups since before the European invasion. The original inhabitants were friendly to the Europeans until they realized that they were in danger of losing their homelands. The competition between the various European powers was sometimes bloody, sometimes diplomatic.

By 1770 Great Britain had defeated France and so was dominant in the territory between the Atlantic and the Mississippi River, except for Florida. In all the English colonies were clusters of other peoples: Dutch, Swedish, German, Jewish, French, Danish. Spain had gained most of the lands of the Caribbean, and those bordering the Gulf of Mexico, extending westward to the Pacific Ocean. In the Pacific Northwest England, Russia, and Spain had not yet settled their claims; the future contender, the United States, had not yet become a nation. French Louisiana was temporarily in the hands of Spain. All these claims represented the European point of view; the Indians had their own.

A restlessness was beginning in the English colonies. In 1763 the British Crown had issued a proclamation prohibiting settlement west of the crest of the Appalachian Mountains, but many had already settled there. The Quartering Act, the Stamp Act, and "taxation without representation" had caused colonists to assert their rights as Englishmen, and to talk of independence. Among those listening were blacks, both free and slave, for whom the talk of liberty had an exciting appeal. Some of the blacks were newly arrived, others were descended from several generations of native-born Americans, but almost all shared a heritage of having been bought or stolen from the coasts of Africa.

ISSUES

1. What kinds of relationships should exist between the newcomers and the original inhabitants?

2. Which European nations should hold claim to which parts of the continent?

3. What role should slavery have in solving the problem of labor in the colonies?

4. What should be the prevailing culture of the new communities as to language, government, education, freedom of the press, freedom of religion?

5. How should the colonists assert their rights as Englishmen against what appeared to them to be infringements on their freedom?

SELECTIONS RELATED TO THE ISSUES

ISSUE 1: WHAT KINDS OF RELATIONSHIPS SHOULD EXIST BETWEEN THE NEWCOMERS AND THE ORIGINAL INHABITANTS?

a. Excerpts from *The Columbus Letter of March 14th, 1493.*

> I gave to all I approached whatever articles I had about me, such as cloth and many other things, taking nothing of theirs in return: but they are naturally timid and fearful. As soon however as they see that they are safe, and have laid aside all fear, they are very simple and honest, and exceedingly liberal with all they have; none of them refusing any thing he may possess when he is asked for it, but on the contrary inviting us to ask them. . .
>
> I could not clearly understand whether the people possessed any private property, for I observed that one man had the charge of distributing various things to the rest, but especially meat and provisions and the like. I did not find, as some of us had expected, any cannibals amongst them, but on the contrary, men of great deference and kindness.[1]

b. Excerpts from an Aztec account of the Spanish massacre of participants in an Aztec religious ceremonial, in *The Broken Spears, the Aztec Account of the Conquest of Mexico.*

> At this moment in the fiesta, when the dance was loveliest and when song was linked with song, the Spaniards were seized with an urge to kill the celebrants. They all ran forward, armed as if for battle. They closed the entrances and

passageways, all the gates of the patio. . .They posted guards, so that no one could escape, and then rushed into the Sacred Patio to slaughter the celebrants. They came on foot, carrying their swords and their wooden or metal shields.

They ran in among the dancers, forcing their way to the place where the drums were played. They attacked the man who was drumming, and cut off his arms. Then they cut off his head, and it rolled across the floor.

They attacked all the celebrants, stabbing them, spearing them, striking them with their swords. They attacked some of them from behind, and these fell instantly to the ground with their entrails hanging out. Others they beheaded: they cut off their heads, or split their heads to pieces. . .[2]

c. Indian assistance to the first colonists is revealed in an account by John Smith, *Narratives of Early Virginia* relating "How Powhatan's Indians saved the Virginia settlers from starvation."

. . .and shortly after it pleased God (in our extremity) to move the Indians to bring us Corne, ere it was halfe ripe, to refresh us, when we rather expected when they would destroy us: about the tenth of September there was about 46 of our men dead. . .

Our provision being now within twentie dayes spent, the Indians brought us great store bothe of Corne and bread already made: and also there came such aboundance of Fowles into the Rivers, as greatly refreshed our weak estates. . . (Again in want, Smith sought out the Indians to trade.) With fish, oysters, bread, and deere, they kindly traded with me and my men, beeing no lesse in doubt of my intent, then I of theirs; for well I might with twenty men have fraighted a Shippe with Corne. (Meeting a hunting party upon his return) who, having but their hunting provision requested me to return to their Towne, where I should load my boat with corne; and with near thirtie bushels I returned to the fort, the very name whereof gave great comfort to our despairing company. (Later, discovering four Indian towns, Smith reported that he was) at each place kindely used; especially at the last, being the hart of the Country; where were assembled 200 people with such aboundance of corne, as having laded our barge, as also I might have laded a ship.[3]

d. Excerpts from William Bradford, in *Of Plymouth Plantation* provide another example:

After these things he returned to his place caled Sowams, some 40 mile from this place, but Squanto continued with them, and was their interpreter, and was a spetiall instrument sent of God for their good beyond their expectation. He directed them how to set their corne, wher to take fish, and to procure other comodities, and was also their pilott to bring them to unknowne places for their profitt, and never left them till he dyed. . .

Afterwards they (as many as were able) began to plant ther corne, in which servise Squanto stood them in great stead, showing them both the manner how to set it, and after how to dress and tend it. Also he tould them excepte they gott fish & set with it (in these old grounds) it would come to nothing, and he showed them that in the middle of Aprille they should have store enough come up the brooke, by which they begane to build, and taught them how to take it, and wher to get other provissions necessary for them; all which they found true by triall and experience.[4]

e. In a communication about the state of affairs in Virginia in 1622, Edward Waterhouse expresses satisfaction that agression against the Indians is now justified because of their recent attack on the colony.[5]

. . .Because the way of conquering them is much more easie then of civilizing them by faire means, for they are a rude, barbarous, and naked people,. . . Besides that, a conquest may be of many, and at once; but civility is in particular, and slow, the effect of long time and great industry. Moreover, victorie of them may be gained many waies; by force, by surprise, by famine in burning their corne, by destroying and burning their Boats, Canoes, and Houses, by breaking their fishing Weares, by assailing them in their huntings whereby they get the greatest part of their sustenance in Winter, by pursuing and chasing them with our horses, and blood-Hounds to draw after them, and Mastives to teare them, which take this naked, tanned, deformed Savages, for no other than wild beasts, and are so fierce and fell upon them, that they fear them worse then their old Devill. . . By these and sundry other wayes, as by driving them (when they flye) upon their enemies, who are round about them, and by animating and abetting their enemies against them, may their ruine or subjection be soone effected. . .

. . . Because the Indians who before were used as friends may now most justly be compelled to servitude and drugery, and supply the roome of men that labour, whereby even the meanest of the Plantation may imploy themselves more entirely in their Arts and Occupations, which are more generous, whilest Savages performe their inferiour workes digging in mynes, and dhe like, of whom also some may be sent for the service of the Sommer Ilands.

f. An excerpt from a speech of King Philip was related in a speech by William Apes, entitled *Eulogy on King Philip*, and was delivered at the Odeon in Boston in 1836. King Philip, son of the friendly Wampanoag chief, Massasoit, had incited a costly war against the settlers in New England in 1675, a conflict which ended in defeat for the Indians but also a long setback for the colonies.

> Brothers, You see this vast country before us, which the Great Spirit gave to our fathers and us; you see the buffalo and deer that now are our support. Brothers, you see these little ones, our wives and children, who are looking to us for food and raiment; and you now see the foe before you, that they have grown insolent and bold; that all our ancient customs are disregarded; the treaties made by our fathers and us are broken, and all of us insulted; our council fires disregarded, and all the ancient customs of our fathers; our brothers murdered before our eyes, and their spirits cry to us for revenge. Brothers, these people from the unknown world will cut down our groves, spoil our hunting and planting grounds, and drive us and our children from the graves of our fathers and our council fires, and enslave our women and children.[6]

g. Excerpt from *On Accomodating the Indians* by Sam Sewal, a Puritan leader who wrote to Sir William Ashurst about his concern for fair treatment of the Indians in 1700.

> One thing more I would crave leave to suggest. We have had a very long and grievous war with the Eastern Indians, and it is of great concernment to His Majesty's interests here that a peace be concluded with them upon firm and sure foundations; which in my poor opinion cannot well be while our articles of accord with them remain so very general as they do. I should think it requisite that convenient tracts of land should be set out to them; and that by plain and natural boundaries, as much as may be -- as lakes, rivers, mountains, rocks -- upon which for any Englishman to encroach should be accounted a crime. Except this be done, I fear their own jealousies, and the French friars, will persuade them that the English, as they increase and think they want more room, will never leave till they have crowded them quite out of all their lands. And it will be a vain attempt for us to offer Heaven to them if they take up prejudices against us, as if we did grudge them a living upon their own earth.[7]

h. Benjamin Franklin wrote a full description *Concerning a Massacre of Friendly Indians*, and added his comments. This was the massacre of the Conestoga Indians by the "Paxton Boys" in Lancaster County, Pennsylvania, 1763.

> If an Indian injures me, does it follow that I may revenge that injury on all Indians? It is well known that Indians are of different tribes, nations, languages as well as the white people. In Europe, if the French, who are white people, should injure the Dutch, are they to revenge it on the English, because they too are white people? The only crime of these poor wretches seems to have been that they had a reddish brown skin and black hair; and some people of that sort, it seems had murdered some of our relations. If it be right to kill men for such a reason, then should any man with a freckled face and red hair kill a wife or child of mine,it would be right for me to revenge it by killing all the freckled red-haired men, women, and children I could afterward anywhere meet with.
>
> . . . These poor people have been always our friends. Their fathers received ours, when strangers here, with kindness and hospitality. Behold the return we have made them! When we grew more numerous and powerful, they put themselves under our protection. See, in the mangled corpses of the last remains of the tribe, how effectually we have afforded it to them! . . .
>
> I shall conclude with observing that cowards can handle arms, can strike where they are sure to meet with no return, can wound, mangle, and murder; but it belongs to brave men to spare and to protect; for as the poet says, "Mercy still sways the brave."[8]

ISSUE 2: WHICH EUROPEAN NATIONS SHOULD HOLD CLAIM TO WHICH PARTS OF THE CONTINENT?

a. Immediately after Christopher Columbus returned to Europe with news of his discoveries in the west, the rival claims of Portugal and Spain had to be determined. The matter was submitted by these two Catholic nations to Pope Alexander VI, who then drew a line of demarcation one hundred leagues west of the Cape Verde Islands, and authorized Spain to claim lands west of that line. This was the Papal Bull, *Inter Caetera* of May 4, 1493. But Portugal did not like the pope's judgment, and negotiated a treaty directly with Spain, which moved the line far enough west for Portugal to have a claim on land which is now Brazil. This was the *Treaty of Tordesillas*, of June 7, 1494.

> . . . Whereas a certain controversy exists between the said lords, their constituents, as to what lands, of all those discovered in the ocean sea up to the present day, the date of this treaty, pertain to each one of the said parts respectively; therefore, for the sake of peace and concord, and for the preservation of the relationship and love of the said King of Portugal for the said King and

> Queen of Castile, Aragon, etc., it being the pleasure of their Highnesses, they. . . covenanted and agreed that a boundary or straight line be determined and drawn north and south, from pole to pole, on the said ocean sea, from the Arctic to the Antarctic pole. This boundary or line shall be drawn straight, as aforesaid, at a distant of three hundred and seventy leagues west of the Cape Verde Islands, being calculated by degrees. . . An all lands, both islands and mainlands, found and discovered already, or to be found and discovered hereafter, by the said King of Portugal and by his vessels on this side of the said line and bound determined as above, toward the east, in either north or south latitude, on the eastern side of the said bound, provided the said bound is not crossed, shall belong to and remain in the possession of, and pertain forever to, the said King of Portugal and his successors. And all other lands, both islands and mainlands, found or to be found hereafter, . . . by the said King and Queen of Castile, Aragon, etc. and by their vessels, on the western side of the said bound, determined as above, after having passed the said bound toward the west, in either its north or south latitude, shall belong to. . . the said King and Queen of Castile, Leon, etc. and to their successors.[9]

b. The treaty between Spain and Portugal did not prevent France and England from promoting voyages of discovery and conquest. In fact, in many ways it goaded them on. By the eighteenth century North America, in European perspective, was subject to the rival claims of France, England, Russia, and Spain. On the east coast France and Great Britain were close rivals, and both had Indian allies. French claims once extended from the St. Lawrence River Valley in Canada, throughout the Mississippi Valley, to New Orleans on the Gulf of Mexico, but after the British success in the French and Indian War France was eliminated. The Treaty of Paris, 1763, detailed the transfer of this vast territory from "His most Christian Majesty" (the King of France) to "His Britannick Majesty," beginning devoutly:

> In the Name of the Most Holy and Undivided Trinity, Father, Son and Holy Ghost. So be it. . .
>
> His most Christian Majesty renounces all pretensions, which he has heretofore formed to Nova Scotia and Acadia, in all its parts, and guaranties the whole of it, and with all its dependencies, to the King of Great Britain; Moreover, his most Christian Majesty cedes, and guarantees to his said Britannic Majesty, in full right, Canada, with all its dependencies. . .[10]

The treaty was full of significance to the English colonies on the East coast, as well as to the Indians whose lands were being discussed. The colonists had provided men, supplies, leadership. They expected that with the removal of French rivals the western frontier would be open for trade and settlement, but the Indians did not give up the fight. A Chippewa chief, Minavavana, spoke his mind:

> Englishman! We are informed that our father the king of France is old and infirm; and that being fatigued with making war upon your nation, has fallen asleep. During his sleep, you have taken advantage of him, and possessed yourselves of Canada. But his nap is almost at an end. I think I hear him already stirring, and inquiring for his children the Indians; and when he does awake, what must become of you? He will destroy you utterly!
>
> Englishman! Although you have conquered the French, you have not yet conquered us! We are not your slaves. These lakes, these woods and mountains, were left to us by our ancestors. They are our inheritance, and we will part with them to none. . .[11]

The Ottawa chief, Pontiac, incited rebellion against the English with eloquent speeches:

> It is important for us, my brothers, that we exterminate from our land this nation which only seeks to kill us. You see, as well as I do, that we cannot longer get our supplies as we had them from our brothers, the French. The English sell us the merchandise twice dearer than the French sold them to us, and their wares (are worth) nothing. Hardly have we bought a blanket, or something else to cover us, than we must think of having another of the kind. When we want to start for our winter quarters they will give us no credit, as our brothers, the French, did. When I go to the English chief to tell him that some of our comrades are dead, instead of weeping for the dead, as our brothers, the French, used to do, he makes fun of me and of you. When I ask him for something for our sick, he refuses, and tells me that he has no need of us. You can well see by that that he seeks our ruin. Well, my brothers, we must all swear to ruion them! Nor will we wait any longer, nothing impedes us. There are very few of them, and we can easily overcome them. All the nations who are our brothers strike a blow at them; why should we not do the same? Are we not men like them?[12]

During Pontiac's War the capture of Fort Michilimackinac provided a terrifying example of Indian war tactics. One of Pontiac's trusted lieutenants, Mih-neh-weh-na, was entrusted to capture the strategic fort at the strait between Lake Michigan and Lake Huron. Knowing that the birthday of the British king would be the occasion of a great celebration, the Ojibway chieftain informed the British commandment that his young men would play an exhibition of *la crosse* for the amusement of the whites.

> During the whole night the Ojibways were silently busy in making preparations for the morrow's work. They sharpened their knives and tomahawks, and filed short off their guns. In the morning these weapons were entrusted to the care of their women, who hiking them under the folds of their blankets, were ordered to stand as near as possible to the gate of the fort, as if to witness the game which the men were about to play. Over a hundred on each side of the Ojibways and Osaugees, all chosen men now sallied forth from their wigwams, painted and ornamented for the occasion, and proceeded to the open green which lay in front of the fort, they made up the stakes for which they were apparently about to play. . .
>
> On the morning of the 4th of June, after the cannon of the fort had been discharged in commemoration of the king's natal day, the ominous ball was thrown up a short distance in front of the gate of Fort Mackinaw, and the exciting game commenced. The two hundred players, their painted persons streaming with feathers, ribbons, fox and wolf tails, swayed to and fro as the ball was carried backwards and forwards by either party. . .
>
> In the struggle for its possession, the ball at last was gradually carried towards the open gates, and all at once, after having reached a proper distance, an athletic arm caught it up in his bat, and as if by accident threw it within the precincts of the fort. With one deafening yell and impulse, the players rushed forward in a body, as if to regain, but as they reached their women and entered the gateway, they threw down their wooden bats and grasping the shortened guns, tomahawks, and knives, the massacre commened, and the bodies of the unsuspecting British soldiers soon lay strewn about, lifeless, horribly mangled, and scalpless. The careless commander was taken without a struggle, as he stood outside the fort, viewing the game which the Ojibway chieftain had got up for his amusement.[13]

Although Pontiac was forced to surrender, his rebellion had profound consequences for the American colonies. The British Crown set an official line of demarcation along the crest of the Appalachian Mountains and prohibited white settlement west of the line. This Proclamation of 1763 will be described further.

c. Spanish claims to the Southwest, in lands later to be known as Mexico, extended from the Isthmus of Panama north to some undefined point in what is now Alaska. They extended from the Pacific coast east to include lands eastward as far as Florida. After the Treaty of Paris, 1763, the Spanish claims included the former French claim to Louisiana, (which Spain kept until 1800 when it was sold to the French, who hadn't even occupied it yet when they sold it to the United States.)

Spain's power did not go unchallenged by the region's native population. The temporarily successful rebellion led by Pope and the Pueblo Indians in 1680 provides illustration. Following is part of a report of the start of hostilities by the governor, Otermin:

> My very reverend father, Sir, and friend, most beloved Fray Francisco de Ayeta: The time has come when, with tears in my eyes and deep sorrow in my heart, I commence to give an account of the lamentable tragedy, such as has never before happened in the world, which has occurred in this miserable kingdom and holy custodia, His Divine Majesty having thus permitted it because of my grievous sins. . .
>
> On Tuesday, the thirteenth of the said month, at about nine o'clock in the morning, there came in sight of us in the suburb of Analco, in the cultivated field of the hermitage of San Miguel, and on the other side of the river of the villa, all the Indians of the Tanos and Pecos nations and the Querez of San Marcos, armed and giving war-whoops. As I learned that one of the Indians who was leading them was from the villa and had gone to join them shortly before, I sent some soldiers to summon him and tell him on my behalf that he could come to see me in entire safety, so that I might ascertain from him the purpose for which they were coming. Upon receiving this message he came to where I was, and, since he was known, as I say, I asked him how it was that he had gone crazy too, being an Indian who spoke our language, was so intelligent, and had lived all his life in the villa among the Spaniards, where I had placed such confidence in him, and was now coming as a leader of the Indian rebels. He replied to me that they had elected him as their captain, and that they were carrying two banners, one white and the other red, and that the white one signified peace and the red one war. Thus, if we wished to choose the white it must be (upon our agreeing) to leave the country, and if we chose the red, we must perish, because the rebels were numerous and we were very few; there was no alternative inasmuch as they had killed so many religious and Spaniards.[14]

The Indians were successful, and the Spanish either were killed or forced to retreat, until 13 years later when they returned in force and recaptured the area.

d. The rival European claims to the Northwest and Alaska were not yet a subject of violent contention. Much of the land was not yet defined on the maps. Vitus Bering had voyaged along the coast of Alaska; Spanish sea captains had been as far north as the Strait of Juan de Fuca and farther. Captain Cook had been in the South Seas, but not yet to the western coasts of Columbia River remained yet to appear on European and American maps. The day would come when all these names would be prominent in the discussion. Meanwhile, the Haida, Kwakiutl, Nootka, Tsimshian, Quileute, and other coastal sea-going tribes pursued a way of life more abundant in food, possessions, artistic development, than most others. As traders, they were soon to become an equal match for the Europeans who were tentatively exploring their shores.

ISSUE 3: WHAT ROLE SHOULD SLAVERY HAVE IN SOLVING THE PROBLEM OF LABOR IN THE COLONIES?

a. The obvious answer to this question was that *all* should labor, in order to survive. Early in the colonial experience it was recognized that artisans were needed with a variety of skills, and the several companies responsible for development of the colonies recruited them. They also recruited unskilled labor, and requested the king of England,

> If it will please his Majestie to banish hither all offenders condemned to die, it would be a readie way to furnish us with men, and not allwayes with the worst kinde of men either for birth, spiritts or Bodie.[15]

However, survival was not the prime reason for coming to the New World. The colonies were supposed to be profitable. This was impossible without cheap labor, and being products of their times, the men of the New World turned to forced labor as a solution. Slavery, indentured servitude, kidnapped labor, convict labor, were all tried. In the Spanish lands of the Caribbean, Indian slavery began with the landing of Columbus; in the English colonies the development of tobacco as a money-making crop increased the demand for labor, as colonists left raising food for tobacco.

Until the institution of private property in Virginia it had even been difficult to get men interested in working to survive.

> When our people were fed out of the common store, and laboured jointly together, glad was he who could slip from his labour, or would hardly take so much true paines in a week, as now for themselves they will doe in a day.[16]

In New England and the Middle Colonies the situation was different. There was no demand for large-scale agriculture labor. The New England stereotype has been one of thrift, self-sufficiency, hard work, and their little rocky farms were good only for subsistence. Dutch and German settlers in the Middle Colonies included many merchants, tradesmen and mechanics in addition to farmers, who became prosperous in their accepted tradition of working with their own hands.

In the Spanish-controlled lands, enslavement of Indians had begun with the first voyage of Columbus, and within a few years he took Indians back to Spain with him. Thousands of Indians in the West Indies had died as a result of the cruelty of their servitude and of smallpox. Some tribes were entirely wiped out. Bartholomew de Las Casas, a crusading priest, persuaded the Spanish emporer, Charles I, to make Indian slavery illegal.

One provision of the *New Laws of the Indies* was intended to make future enslavement of Indians illegal:

> Furthermore: we order that henceforth, neither by war nor by any other means, even if it be under the guise of rebellion, nor by barter, nor in any other way, shall any Indian whatsoever be made a slave, and we wish them to be treated as vassals of the Crown of Castile, for such they are. No person may use the Indians as *naborias* or *tapias*, nor in any other way against their will.[17]

This order affecting only the future taking of Indian slaves. There were other regulations which governed those Indians already enslaved. The ordinance was signed in 1542, forty years after Las Casas first came to Hispaniola, and then there followed a long battle for its enforcement.

Las Casas' reform and the extermination of Indian tribes made it desirable for a labor force to be found elsewhere, especially for the sugar plantations of the Caribbean. Raiding the coast of Africa south of the Sahara for slaves had been increasing ever since the the first foray by Antam Goncalves in 1441.[18] With the new demand for labor, the African slave traffic greatly enlarged. The first Africans to be sold in an English colony were put ashore from a Dutch ship at Jamestown, in 1619, thus beginning a history of 250 years of forced labor in Anglo-America.

b. We have excerpts from the account of a slave who bought his own freedom, Equiano, later named Gustavus Vassa. Kidnapped at the age of eleven by another African tribe, he was sold to traders who later sold him into American slavery. After gaining his freedom he acquired an education and wrote his autobiography: *The Interesting Narrative of the Life of Gustavus Vass, the African:*

> I now saw myself deprived of all chance of returning to my native country, or even the least glimpse of hope of gaining the shore, which I now considered as friendly; and I even wished for my former slavery in preference to my present situation, which was filled with horrors of every kind, still heightened by my ignorance of what I was to undergo. I was not long suffered to indulge my grief. I was soon put down under the decks, and there I received such a salutation in my nostrils as I had never experienced in my life; so that with the loathsomeness of the stench and crying together, I became so sick and low that I was not able to eat, or had I the least desire to taste anything. I now wished for the last friend, death, to relieve me; but soon, to my grief two of the white men offered me eatables; and on my refusing to eat, one of them held me fast by the hands and laid me across, I think, the windlass, and tied my feet, while the other flogged me severely.
>
> I had never experienced anything of this kind before, and although not being used to the water, I naturally feared that element the first time I saw it, yet nevertheless, could I have got over the nettings, I would have jumped over the side, but I could not; and, besides, the crew used to watch us very closely who were not chained down to the decks lest we should leap into the water. And I have seen some of these poor African prisoners most severely cut for attempting to do so, and hourly whipped for not eating.[19]

c. Captain John Smith of Virginia proposed enslaving the Indians, as quoted in *Narratives of Early Virginia:*

> ". . . it is more easy to civilize them by conquest than by faire means; for the one may be made at once, but their civilzing will require a long time and much industry. The manner how to suppresse them is often related and approved, I omit here: and you have twenty examples of the Spaniards how they got the West Indies, and forced the treacherous and rebellious infidels to doe all manner of drudgery worke and slavery for them, themselves living like Souldiers upon the fruits of their labours. . . What growing state was there ever in the world which had not the like? Rome grew by oppression, and rose upon the backs of her enemies: and the Spaniards have had many of those counterbuffes, more than we.[20]

d. Gottlieb Mittelberger observed the "sale" of European laborers while visiting colonial Philadelphia, and described it in his printed protest: *Journey to Philadelphia in the Year 1750:*

> The sale of human beings in the market on board the ship is carried on thus: Every day Englishmen, Dutchmen, and High-German people come from the city of Philadelphia and other places, in part from a great distance, say twenty, thirty, or forty hours away, and go on board the newly arrived ship that has brought and offers for sale passengers from Europe, and select among the healthy persons such as they deem suitable for their business, and bargain with them how long they will serve for their passage money, which most of them are still in debt for. When they have come to an agreement, it happens that adult persons bind themselves in writing to serve three, four, five or six years for the amount due by them, according to their age and strength. But very young people, from ten to fifteen years, must serve till they are twenty-one years old.
>
> Many parents must sell and trade away their children like so many head of cattle, for if their children take the debt upon themselves, the parents can leave the ship free and unrestrained; but as the parents often do not know where and to what people their children are going, it often happens that such parents and children, after leaving the ship, do not see each other again for many years, perhaps no more in all their lives.[21]

e. The first known protest against slavery was made by some Germantown Mennonites in 1688.

> These are the reasons why we are against the traffic of mens-body as follows: Is there any that would be done or handled at this manner, viz., to be sold or made a slave for all the time of his life? How fearful and fainthearted are many on sea when they see a strange vessel, being afraid it should be a Turk, and they should be taken and sold for slaves in Turkey. Now what is this better done as Turks do? Yea, rather it is worse for them which say they are Christians, for we hear that the most part of such Negroes are brought hither against their will and consent, and that many of them are stolen. Now, though they are black, we cannot conceive there is more liberty to have them slaves as it is to have other white ones. There is a saying that we shall do to all men like as we will be done ourselves, making no difference of what generation, descent, or color they are. And those who steal or rob men, and those who buy or purchase them, are they not all alike? Here is liberty of conscience, which is right and reasonable. Here ought to be likewise liberty of the body, except of evildoers, which is another case. But to bring men hither, or to rob and sell

them against their will, we stand against.[22]

f. Excerpts from *Journal Entries on Slavery* by John Woolman, Quaker, about 1776.

> The prospect of a way being open to the same degeneracy in some parts of this newly settled land of America in respect to our conduct toward the Negroes hath deeply bowed my mind in this journey, and though briefly to relate how these people are treated is no agreeable work; yet, after often reading over the notes I made as I traveled, I find my mind engaged to preserve them. Many of the white people in those provinces take little or no care of Negro marriages; and when Negroes marry after their own way, some make so little account of those marriages that with views of outward interest they often part men from their wives by selling them far asunder, which is common when estates are sold by executors at vendue. Many whose labor is heavy being followed at their business in field by a man with a whip, hired for that purpose, have in common little else allowed but one pick of Indian corn and some salt, for one week, with a few potatoes they commonly raise by their labor on the first day of the week. The correction ensuing on their disobedience to overseers, or slothfulness in business, is often very severe and sometimes desperate.
>
> Men and women have many times scarcely clothes sufficient to hide their nakedness, and boys and girls ten and twelve years old are often quite naked amongst their master's children. Some of our Society, and some of the society called New Lights,use some endeavors to instruct those they have in reading; but in common this is not only neglected but disapproved. These are the people by whose labor the other inhabitants are in a great measure supported, and many of them in the luxuries of life. These are the people who have made no agreement to serve us, and who have not forfeited their liberty that we know of. These are the souls for whom Christ died, and for our conduct toward them we must answer before Him who is no respector of persons. They who know the only true God, and Jesus Christ who He hath sent, and are thus acquainted with the merciful, benevolent, gospel spirit, will therein perceive that the indignation of God is kindled against oppression and cruelty, and in beholding the great distress of so numerous a people will find cause for mourning.[23]

ISSUE 4: WHAT SHOULD BE THE PREVAILING CULTURE OF THE NEW COMMUNITIES AS TO LANGUAGE, GOVERNMENT, EDUCATION, FREEDOM OF THE PRESS, FREEDOM OF RELIGION?

a. The Rights of Englishmen. That the prevailing culture would be English in language, government, religion, and custom, was taken for granted in the wording of the first charters of the colonists, as well as in the compacts that they made among themselves. The first Virginia Charter derived its authority from the crown of England, and defined the liberties of the colonists to be the same as if they had been born in England:

> I, James, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. Whereas our loving and well-disposed Subjects, Sir Thomas Gates, and Sir George Somers, Knights, Richard Hackluit, Clerk, Prebendary of Westminister, and Edward-Maria Wingfield, Thomas Hanham, and Raleigh Gilbert, Esqrs, William Parker, and George Popham, Gentlemen, and divers others of our loving Subjects, have been humble Suitors unto us, that We would vouchsafe unto them our Licence, to make Habitation, Plantation, and to deduce a Colony of sundry of our people into that Part of America, commonly called Virginia, and other parts and Territories in America, either appertaining unto us, or which are not now actually possessed by any Christian Prince of People, situate, lying, and being all aldong the Sea Coasts, between four and thirty degrees of Northerly Latitude from the Equinoctial line, and five and forty degrees of the same Latitude, and in the main Land between the same four and thirty and five and forty Degrees, and the Islands thereunto adjacent, or within one hundred Miles of the Coast thereof;. . .
>
> We, greatly commending, and graciously accepting of, their Desires for the Furtherance of so noble a Work, which may, by the Providence of Almighty God, hereafter tend to the Glory of his Divine Majesty, in propagating of Christian Religion to such People, as yet live in Darkness and miserable Ignorance of the true Knowledge and Worship of God, and may in time bring the Infidels and Savages, living in those Parts, to human Civility, and to a settled and quiet Government; Do, by these our Letters Patents, graciously accept of, and agree to, their humble and well-intended Desires;. . .

b. Representative government. The First Charter of Massachusetts included provision for self-government, provided that the laws made in the colony were not contrary to the laws of England:

> And,. . . Wee doe graunte to the saide, Governor and Company, . . . That all and every the Subjects of Vs, . . . which shall . . . inhabite within the saide Landes . . . ,shall have and enjoy all liberties and Immunities of free and naturall Subjects within any of the Domynions of

> Vs, . . . And . . . it shall and maie be lawfull, to and for the Governor. . . and such of the Tyme being as shalbe assembled in any of their generall Courts aforesaide, or in any other Courtes to be specially sumoned and assembled for that Purpose, or the greater Parte of them. . . from tyme to tyme, to make, ordeine, and establishe all Manner of wholesome and reasonable Orders, Lawes, Statutes, and Ordinnces, Direccons, and Instrucons, not contrairie to the Lawes of this our Realme of England, aswell for setling of the Formes and Ceremonies of Governmt and Magistracy, . . . and for the directing . . . of all other Matters and Thinges, whereby our said People, . . . may be soe religiously, peaceablie, and civilly governed, as their good Life and orderlie Conversacon, maie wynn and incite the Natives of Country, to the Knowledg an and Obedience of the onlie true God and Sauior of Mankinde, and the Christian Fayth, which in our Royall Intencon, and the Adventurers free Profession, is the principall Ende of this Plantacion. . .[25]

c. Public Education. The Massachusetts School of Law of 1647 established the first system of public education in the English colonies, and provided an example followed by the other New England colonies.

> It being one chiefe proiect of ye old deluder, Satan, to keepe men from the knowledge of ye Scriptures, as in formr times by keeping ym in an unknowne tongue, so in these lattr times by perswading from ye use of tongues, yt so at least ye true sence & meaning of ye originall might be clouded by false glosses of saint seeming deceivers, yt learning may not be buried in ye grave of or fathrs inye church and commonwealth, the Lord assisting or endeavors,
>
> It is therefore ordred,yt evry towneship in this iurisdiction, aftr ye Lord hath increased ym number to 50 housholdrs, shall then forthwth appoint one wth in their towne to teach all such children as shall resort to him to write & reade, whose wages shall be paid eithr by ye parents or mastrs of such chidlren, or by ye inhabitants in genrall, by way of supply, as ye maior part of those yt ordr ye prudentials ye twone shall appoint; provided, those yt send their children be not oppressed by paying much more ym they can have ym taught for in othr townes; & it is furthr ordered, yt where any towne shall increase to ye numbr of 100 families or househoulrs, they shall set up a grammer schoole, ye mr thereof being able to instruct youth so farr as they shall be fitted for ye university, provided, yt if any towne neglect ye performance hereof above one yeare, yt every such towne shall pay 5 pounds to ye next schoole till they shall performe this order.[26]

d. Printing presses existed in each of the colonies by 1750, producing weekly newspapers that related news from overseas and from other colonies, as well as political writings and verse. The first book published was *The Bay Psalm Book*, in 1640. However, the first document published was *The Oath of a Freeman*, printed in Massachusetts in 1639.

> I . . . being by God's providence an inhabitant and freeman within the jurisdiction of this common wealth, do freely acknowledge myself to be subject to the government thereof; and therefore do swear by the great and dreadful name of the everliving God that I will be true and faithful to the same, and will accordingly yield assistance and support thereunto with my person estate, as in equity I am bound; and will also truly endeavor to maintain and preserve all the liberties and privileges thereof, submitting myself to the wholesome laws and orders made and established by the same. And further, that I will not plot or practice any evil against it, or consent to any that shall do so; but will timely discover and reveal the same to lawful authority now here established for the speedy preventing thereof.
>
> Moreover, I do solemnly bind myself in the sight of God that, when I shall be called to give my voice touching any such matter of this state, in which freemen are to deal, I will give my vote and suffrage as I shall judge in my own conscience may best conduce and tend to the public weal of the body, without respect of persons or favor of any man. So help me God in the Lord Jesus Christ.[27]

e. Freedom of the Press. This was cherished by many in the colonies. Hardly a century after John Milton's pamphlet, *Areopagitica* was published in the mother country, in 1731 Benjamin Franklin wrote on the freedom of printers:

> Printers are educated in the Belief, that when Men differ in Opinion, both Sides ought equally to have the Advantage of being heard by the Publick; and that when Truth and Error have fair Play, the former is always an overmatch for the latter: Hence they chearfully serve all contending Writers that pay them well, without regarding on which side they are of the Question in Dispute. . .
>
> That it is unreasonable to imagine Printers approve of every thing they print, and to censure them on any particular thing accordingly; since in the way of their Business they print such great variety of things opposite and contradictory. It is likewise as unreasonable what some assert, "That Printers ought not to print any Thing but what they approve;" since if all of the Business should

> make such a Resolution, and abide by it, and End would thereby be put to Free Writing, and the World would afterwards have nothing to read but what happen'd to be the Opinions of Printers.[28]

Four years later a German immigrant printer and publisher, John Peter Zenger, was on trial for publishing articles critical of the colonial governor of New York. His lawyer countered that the articles were not libelous because they were true. The jury agreed, thereby establishing a precedent for freedom of speech and of the press that had both immediate and far-reaching consequences. In a very short time the protesters of the Stamp Act were quoting this decision. Following is a part of his lawyer's closing argument:

> But to conclude. The question before the Court and you gentlemen of the jury is not of small or private concern; it is not the cause of a poor printer, nor of New York alone, which you are now trying. No! It may in its consequence affect every freeman that lives under a British government on the main of America. It is the best cause. It is the cause of liberty; and I make no doubt but your upright conduct this day will not only entitle you to the love and esteem of your fellow citizens, but every man who prefers freedom to a life of slavery will bless and honor you as men who have baffled the attempt of tyranny; and by an impartial and uncorrupt verdict, have laid a noble foundation for securing to ourselves, our posterity and our neighbors that to which nature and the laws of our country have given us a right – the liberty – both of exposing and opposing arbitrary power (in these parts of the world, at least) by speaking and writing truth.[29]

f. Religious freedom. In recent years many have chosen to emphasize the ironic intolerance and bigotry of some of the founding fathers who came to America in search of religious freedom. However, both to keep the record in balance and also to trace the beginnings of a cherished freedom of worship in the United States, several instances of early concern and legislation for toleration and "free exercise of religion" are here cited.

One of the earliest was the "Maryland Toleration Act." After enacting laws making denial of Christian faith in general punishable by death, and defamation of the Virgin Mary punishable by fine and imprisonment, the Act goes on to lay penalties of fine and whipping on any persons who should offensively or reproachfully call another prson a "heretic, schismatic, idolator, Puritan, independent, Presbyterian, popish priest, Jesuit, Jesuited papist, Lutheran, Calvinist, Anabaptist, Brownist, Antinomian, Barrowist, Roundhead, Separatist or any other name or term reproachful relating to a matter of religion. . ." Then follows a paragraph of prophetic significance, whose principles were later to be echoed in the American Bill of Rights:

> And whereas the enforcing of the conscience in matters of religion has frequently fallen out to be of dangerous consequence in those commonwealths where it has been practiced, and for the more quiett and peaceable government of this province, and the better to preserve mutual love and amity amongst the inhabitants thereof, be it, therefore also by the Lord Proprietary, with the advice and consent of this assembly, ordained and enacted (except as in this present act is before declared and set forth) that no person or persons whatsoever within this province, or the islands, ports, harbors, creeks, or havens thereunto belonging, professing to believe in Jesus Christ, shall from henceforth be in any way troubled, molested, or discountenanced for in respect of his or her religion, nor in the free exercise thereof. . . nor in any way compelled to the belief or exercise of any other religion against his or her consent. . .[30]

Roger Williams, non-conformist Baptist minister, expelled from the Massachusetts Bay colony, founded Rhode Island on principles of religious freedom and government based on the consent of the governed, as well as humane relationships with Indians, among whom he was always welcome. Separation of church and state was strongly expressed in his 1652 essay: *The Hireling Ministry – None of Christ's*, from which are taken the following paragraphs:

> The civil sword (therefore) cannot (rightfully) act either in restraining the souls of people from worship, etc., or in constraining them to worship, considering that there is not a tittle in the New Testament of Christ Jesus that commits the forming or reforming of His spouse and church to the civil and worldly powers. . .
>
> Hence must it lamentably be against the testimony of Christ Jesus for the civil state to impose upon the souls of the people a religion, a worship, a ministry, oaths (in religious and civil affairs), tithes, times, days, marryings, and buryings in holy ground, yet in force, as I have (I hope), by the help of God, fully debated that great question with Master Cotton, and washed off all his late washings of that bloody tenent of persecution. . .[31]

Religious freedom for Jews was not covered by the Maryland Toleration Acts. Yet Jewish settlers who had previously enjoyed Dutch toleration, began arriving in New Amsterdam (later to be New York) in 1654. They were refugees from the Portuguese capture of Recife in

Brazil, put ashore at New Amsterdam by a French captain who had rescued them from pirates at sea. When Peter Stuyvesant objected to their settlement they appealed to the Dutch West India Company, and won the right to stay, with further instruction to Stuyvesant that he was "not to force people's conscience but allow everyone to have his own belief, as long as he behaves quietly and legally. The poor among these Jews shall not become a burden to the Company or the community but be supported by their own Nation.[32]

The first case in the colonies in which failure to appear in court when summoned was excused because it was the Jewish Sabbath, occured in 1658, when Jacob Barsimon, who preceded the Recife Jews in New Amsterdam by one month, failed to attend, and the court record reads: "Though the defendant is absent yet no default is entered against him as he was summoned on his Sabbath."[33] At first prohibited from public worship, by 1682 the Jews had a rented house for meetings of the congregation, which still exists as a congregation, meeting beside Central Park, in New York City. Rhode Island in 1763 and South Carolina in 1741, permitted Jewish congregations to organize for worship. However, the Jewish settlers were not allowed full participation in the life of the community, even not being permitted to stand guard duty with other citizens for the protection of their city:

> The captains and officers of the trainbands of this city, having asked the director general and Council whether the Jewish people who reside in this city should also train and mount guard with the citizens' bands, this was taken in consideration and deliberated upon. First, the disgust and unwillingness of these trainbands to be fellow soldiers with the aforesaid nation and to be on guard with them in the same guardhouse, on the other side, that the said nation was not admitted or counted among the citizens, as regards trainbands or common citizens' guards, neither in the illustrious city of Amsterdam nor (to our knowledge) in any city in Netherland.[34]

One of the immigrants, Asser Levy, stood guard anyway, and later won his case in court.[35]

Toleration for Quakers posed yet another test of the liberality of the settlement at New Amsterdam. Harsh treatment of their missionaries in 1656-1657 was demanded by law, with penalties for disobeying, but twenty-six citizens of Flushing, Long Island made a now-famous *Remonstrance*:

> You have been pleased to send up unto us a certain prohibition or command that we should not receive or entertain any of those people called Quakers, because they are supposed to be, by some, seducers of the people. For our part we cannot condemn them in this case, neither can we stretch out our hands against them to punish, banish or persecute them, for out of Christ, God is a consuming fire, and it is a fearful thing to fall into the hands of the living God. We desire, therefore, in this case, not to judge lest we be judged, neither to condemn lest we be condemned, but rather let every man stand and fall to his own. . .
>
> The law of love, peace, and liberty in the states extending to Jews, Turks, and Egyptians, as they are considered the sons of Adam, which is the glory of the outward state of Holland; so love, peace, and liberty, extending to all in Christ Jesus condemns hatred, war, and bondage; and because our Savior says it is impossible but that offense will come, but woe be unto him by whom they come, our desire is not to offend one of His little ones in whatsoever form, name, or title he appears in, whether Presbyterian, Independent, Baptists, or Quaker; but shall be glad to see anything of God in any of them, desiring to do unto all men as we desire all men should do unto us, which is the true law both of church and state; for our Savior says this is the law and the prophets. Therefore, if any of these said persons come in love unto us, we cannot in conscience lay violent hands upon them, but give them free egress into our town and houses as God shall persuade our consciences. And in this we are true subjects both of the church and state; for we are bound by the law of God and man to do good unto all men and evil to no man; and this is according to the patent and charter of our town given unto us in the name of the States General, which we are not willing to infringe and violate but shall hold to our patent and shall remain your humble subjects, the inhabitants of Flushing.[36]

g. The institutionalizing of slavery took place over a period of years. The first laws of the colonies made no provision for slavery. It is fair to say the status of the twenty blacks who were sold at Jamestown in 1619 was not necessarily that of "slavery for life." Some historians[37] believe that they were indentured servants who could work out their time and then be free, as were white indentured servants. But by the middle of the seventeenth century they were usually considered slaves for life, although already there were free blacks in the colonies. One early obstacle to the religious education of slaves was the prohibition against enslaving a baptized Christian. Virginia law, as cited below, removed this obstacle, thereby ensuring that slave masters could expect to own the children of their female slaves, regardless of religious scruples, or sell them as they wished. Following are enactments of Virginia legislators, which also had influence on the legal institutionalizing of slavery in the other colonies at that time.

On the Nativity Conditions of Slavery (December 1662):

> Whereas some doubts have arisen whether children got by any Englishman upon a Negro woman should be slave or free, be it therefore enacted and declared by this present Grand Assembly, that all children born in this country shall be held bond or free only according to the condition of the mother and that if any Christian shall commit fornication with a Negro man or woman, he or she so offending shall pay double the fines imposed by the former act.[38]

On Baptism and Bondage (September 1667):

> Whereas some doubts have risen whether children that are slaves by birth, and by the charity and piety of their owners made partakers of the blessed sacrament of baptism, should by virtue of their baptism be made free, it is enacted and declared by this Grand Assembly, and the authority thereof, that the conferring of baptism does not alter the condition of the person as to his bondage or freedom; that diverse masters, freed from this doubt may more carefully endeavor the propagation of Christianity by permitting children, though slaves, or those of greater growth if capable, to be admitted to that sacrament.[38]

On the Killing of Slaves (October 1669):

> Whereas the only law in force for the punishment of refractory servants resisting their master, mistress, or overseer cannot be inflicted upon Negroes, nor the obstinacy of many of them be suppressed by other than violent means, be it enacted and declared by this Grand Assembly if any slave resists his master (or other by his master's order correcting him) and by the extremity of the correction should chance to die, that his death shall not be accounted a felony, but the master (or the other person appointed by the master to punish him) be acquitted from molestation, since it cannot be presumed that premeditated malice (which alone makes murder a felony) should induce any man to destroy his own estate.[38]

ISSUE 5: HOW SHOULD THE COLONISTS ASSERT THEIR RIGHTS AS ENGLISHMEN AGAINST WHAT APPEARED TO THEM TO BE GROWING INFRINGEMENTS ON THEIR LIBERTIES?

a. The Royal Proclamation Concerning America of October 7, 1763, did much to arouse the resentment of the colonists against the British Crown because it prohibited settlement beyond the crest of the Appalachians. They had expected that the victorious conclusion of the French and Indian War would have opened the West to safer settlement, but the Crown was more concerned to maintain peace and reduce the cost of frontier defense. The proclamation begins thus:

> Whereas we have taken into our royal consideration the extensive and valuable acquisitions in America secured at Paris the 10th day of February last; and being desirous that all our loving subjects, as well of our kingdom as of our colonies in America, may avail themselves, with all convenient speed, of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation; we have thought fit, with the advice of our Privy Council, to issue this Royal Proclamation. . .[39]

After detailed geographical and administrative descriptions the proclamation limited settlement and land purchase:

> . . . And whereas it is just and reasonable, and essential to our interest and the security of colonies, that the several nations or tribes of Indians, with whom we are connected, and who live under our protection should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to, or purchased by us, are reserved to them, or any of them, as their hunting grounds; we do . . . declare it to be our royal will and pleasure, that no governor, or commander in chief, in any of our colonies of Quebec, East Florida, or West Florida, do presume, under any pretence whatever, to grant warrants of survey, or pass any patents for lands beyond the bounds of their respective governments, as described in their commissions; as also that no governor or commander in chief of our other colonies or plantations in America, do presume for the present, and until our further pleasure be known, to grant warrant of survey, or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west or north-west; or upon any lands whatever, which not having been ceded to, or purchased by us, as aforesaid, are reserved to the said Indians, or any of them.
>
> And we do further declare it to be our royal will and pleasure, for the present, as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians, all the land and territories not included within the limits of our said three new governments, or within the limits of the territory granted to the Hudson's Bay Company; as also all the land and territories

> lying to the westward of the sources of the rivers which fall into the sea from the west and north-west as aforesaid. . ."[37]

b. What was "representation"? The British view contained a concept called "virtual" representation, and maintained that it was as good as any representation enjoyed by residents in Britain, but the Americans would not accept their definition. The British view was explained by Thomas Whately:

> The Fact is, that the inhabitants of the Colonies are represented in Parliament; they do not indeed chuse the Members of that Assembly; neither are Nine Tenths of the People of Britain Electors; for the Right of election is annexed to certain Species of Property, to peculiar Franchises, and to inhabitancy in some particular Places; but these descriptions comprehend only a very small Part of the Land, the Property, and the People of this Island. . .
>
> The Colonies are in exactly the same Situation: All British Subjects are really in the same; none are actually, all are virtually represented in Parliament; for every Member of Parliament sits in the House, not as Representative of his own Constituents, but as one of the august Assembly by which all the Commons of Great Britain are represented. . ."[38]

The *Providence Gazette* replied with the American view:

> To infer, my lord, that the British members of Parliament actually represent the colonies, who are not permitted to do the least act towards their appointment, because Britain is unequally represented, although every man in the kingdom who hath certain legal qualifications can vote for some one to represent him, is such a piece of sophistry that I had half a mind to pass by the cobweb without blowing it to pieces. Is there no difference between a country's having a privilege to choose 558 members to represent them in parliament, though in unequal proportions to the several districts, which cannot be avoided, and not having liberty to choose *any*?"[39]

c. The Stamp Act, March 22, 1765, was next to arouse the indignation of the colonists, and begin a vocal protest that led to the call for independence. It was enacted as an act "for defraying the expences of defending, protecting, and securing" the British colonies and plantations in America. It required the purchase of a stamp "for every skin or piece of vellem or parchment, or sheet or piece of paper on which shall be ingrossed, written or printed, any declaration, plea, replication, rejoinder, demurrer, or other pleading, or and copy thereof, in any court of law within the British colonies and plantations in America. . ."[40]

The colonial response was immediate and eloquent. On May 30, 1765, the Virginia House of Burgesses passed resolutions which asserted the principle of taxation only by representatives of the taxpayers, a right which had been asserted in the Magna Carta:

> *Resolved*, That the taxation of the people by themselves or by persons chosen by themselves to represent them, who can only know what taxes the people are able to bear, or the easiest method of raising them, and must themselves be affected by every tax laid on the people, is the only security against a burthensome taxation, and the distinguished characteristick of British freedom, without which the ancient constitution cannot exist. . ."[41]

This was the occasion for Patrick Henry's fiery oratory when he concluded, "Caesar had his Brutus, Charles the First had his Cromwell, and George the Third ('Treason!' cried the speaker) may profit by their example. If this be treason, make the most of it."[42]

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Chapter II

Founding the New Nation, 1770-1800

INTRODUCTION

By 1770 the mounting tension between Britain's American colonists and her own government could be felt in the streets of Boston, where the sight of red-coats was the occasion for taunting and harassment. A snowballing incident led to the bloody clash on the Boston Common which Samuel Adams described as a "massacre." It was the first bloodshed of the coming rebellion. From then on there seemed no turning back from steps toward independence. Britain's Tea Act was countered by boycott and the "Boston Tea Party." When Boston was punished, the Virginia House of Burgesses openly sympathized and was suspended by the British governor. The colonists then organized a "continental congress" to conduct the business of uniting the colonies in their demand for the rights of Englishmen.

In 1775 the Battle of Lexington and Concord began open, armed rebellion against British troops. The next year, after King George III refused the colonists' "Olive Branch Petition," the 2nd Continental Congress issued the *Declaration of Independence*, but the Americans, black as well as white, had to fight for seven precarious years before Britain finally recognized it with a Treaty of Peace in 1783.

The first plan of government, which bound the thirteen separate colonies into a confederation of states, proved ineffective, so delegates gathered at Philadelphia with the commission to write a new plan. Meanwhile, the Congress provided for westward expansion by enacting the historic Northwest Ordinance, which would affect the destinies not only of future settlers but also of the resident Indian nations, and of blacks, for whom the prohibition of slavery in those territories would prove significant.

In 1789, with the promise of the addition of a Bill of Rights, enough of the states ratified the new Constitution to put it into effect. A new congress was elected and George Washington was installed as first President without opposition. By the time a second President was in office the persistent controversy over the relationship of the states to the federal government was testing the strength of the new union.

ISSUES

1. Should the American colonies remain loyal to Great Britain or declare and defend independence?

2. How should the racial and religious minorities participate in the struggle for independence?

3. How should the new nation strengthen its union and resolve the conflict of state vs. national authority?

4. How should the new nation resolve the conflicting claims of Indians, the British, and various states over the land known as the "Old Northwest Territory"?

5. Should the United States encourage manufacturing, commerce and banking, or remain primarily an agricultural state?

SELECTIONS RELATED TO THE ISSUES

ISSUE 1: SHOULD THE AMERICAN COLONIES REMAIN LOYAL TO GREAT BRITAIN OR DECLARE AND DEFEND INDEPENDENCE?

a. In 1774 the Continental Congress adopted a report known as *The Association*, which was a significant step toward unifying the colonies, who still spoke of themselves as "his majesty's loyal subjects." It committed the colonies to a non-importation agreement, prohibited importing slaves, and set up committees for enforcing the rules of the Association. After listing British policies that the colonists felt to be oppressive, "evidently calculated for enslaving these colonies, and, with them, the British Empire,"[1] the report states:

> To obtain redress of these grievances, which threaten destruction to the lives, liberty, and property of his majesty's subjects, in North America, we are of opinion, that a non-importation, non-consumption, and non-exportation agreement, faithfully adhered to, will prove the most speedy, effectual, and peaceable measure: And, therefore, we do, for ourselves, and the inhabitants of the several colonies, whom we represent, firmly agree and associate,

> under the ties of virtue, honour and love of our country. . .

There follows a lengthy, specific description of the rules, concluding:

> And we do further agree and resolve, that we will have no trade, commerce, dealings or intercourse whatsoever, with any colony or province, in North America, which shall not accede to, or which shall hereafter violate this association, but will hold them as unworthy of the rights of freemen, and as inimical to the liberties of their country . . .
>
> The foregoing association being determined upon by Congress, was ordered to be subscribed by the several members thereof; and thereupon, we have hereunto set our respective names accordingly.
>
> *In Congress, Philadelphia*, October 20, 1774.
> Signed, *Peyton Randolph*, President.[2]

b. The Boston Tea Party was memorialized in this popular song:

Revolutionary Tea

There was an old lady lived over the sea,
And she was an island Queen;
Her daughter lived off in a new country,
With an ocean of water between.
The old lady's pockets were full of gold,
But never contented was she,
So she called on her daughter to pay her a tax
Of three pence a pound on her tea,
Of three pence a pound on her tea.

Now mother, dear mother," the daughter replied,
"I shan't do the thing that you ax;
I'm willing to pay a fair price for the tea,
But never the three penny tax."
"You shall," quoth the mother, and reddened with rage,
"For you're my own daughter, you see,
And sure 'tis quite proper the daughter should pay
Her mother a tax on her tea,
Her mother a tax on her tea.

And so the old lady her servant called up,
And packed off a budget of tea;
And eager for three pence a pound, she put in
Enough for a large family.
She ordered her servants to bring home the tax,
Declaring her child should obey,
Or old as she was, and almost woman grown,
She'd half whip her life away,
She'd half whip her life away.

The tea was conveyed to the daughter's door,
All down by the ocean's side;
And the bouncing girl poured out every pound
In the dark and boiling tide.
And then she called out to the Island Queen,
"Oh, mother, dear mother," quoth she,
"Your tea you may have when 'tis steeped enough,
But never a tax from me.
But never a tax from me.[3]

c. The opinions of Samuel Seabury are an example of Tory, loyalist reasoning. He felt that the greatest good of the colonies lay in submission to governmental rule, and justified the taxation as a necessary expense of the protection of the national army. He warned of the danger of coming under the rule of some other foreign power — or, worse yet, "a few American demagogues." A new master could turn out to be worse than the old. The following selections are from a letter of December 24, 1774:

> A person diseased with the jaundice sees no color but yellow. Party heat, the fever of liberty, may, for anything I know, vitiate the mind as much as the jaundice the eyes. I flatter myself, however, that all reasonable Americans will . . . not be led by positive assertions without proof, nor declamatory harangues without argument, into rebellion against the supreme authority of the nation; nor be beguiled of their present free and happy government by the loud clamors of unrestrained licentiousness under the specious name of liberty. Tyranny and slavery must be the consequence of the present system of conduct. If we wantonly throw off that subordination to the British Parliament which our present state requires, we shall inevitably fall under the dominion of some foreign tyrant, or the more intolerable despotism of a few American demagogues . . .
>
> Government implies not only a power of making and enforcing laws but defense and protection. Now protection implies tribute. Those that share in the protection of any government are in reason and duty bound to maintain and support the government that protects them; otherwise they destroy their own protection; or else they throw an unjust burden on their fellow subjects, which they ought to bear in common with them. While, therefore, the colonies are under the British government and share in its protection, the British government has a right to raise, and they are in reason and duty bound to pay, a reasonable and proportionable part of the expense of its administration . . .
>
> You, sir, argue through your whole pamphlet upon an assumed point: viz, that the British government — the King, Lords, and Commons — have laid a regular plan to enslave America; and that they are now deliberately putting it in execution. This point has never been proved, though it has been asserted over and over and

> over again. If you say that they have declared their right of making laws to bind us in all cases whatsoever, I answer that the declarative act here referred to means no more than to assert supreme authority of Great Britain over all her dominions. If you say that they have exercised this power in a wanton, oppressive manner, it is a point that I am not enough acquainted with the minutiae of government to determine.
>
> It may be true. The colonies are undoubtedly alarmed on account of their liberties. Artful men have availed themselves of the opportunity and have excited such scenes of contention between the parent state and the colonies as afford none but dreadful prospects . . . If greater security to our rights and liberties be necessary than the present form and administration of the government can give us, let us endeavor to obtain it; but let our endeavors be regulated by prudence and probability of success. In this attempt all good men will join, both in England and America. All who love their country and wish the prosperity of the British Empire will be glad to see it accomplished.[4]

d. The Virginia House of Burgesses showed its sympathy for the rebels in Massachusetts by declaring a day of fasting and prayer on the date of the closing of the port of Boston. When Lord Dunmore responded to this action by suspending the Virginia Assembly, Patrick Henry was given an occassion for a stirring call to arms:

> There is no longer any room for hope. If we wish to be free; if we wean to preserve inviolate those inestimable privileges for which we have been so long contending; if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon, until the glorious object of our contest shall be obtained; we must fight! I repeat it, sir, we must fight! An appeal to arms and to the God of hosts is all that is left us!
>
> They tell us, sir . . . that we are weak, unable to cope with so formidable an adversary. But when shall we be stronger. Will it be the next week or the next year? Will it be the we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance by lying supinely on our backs and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak if we make a proper use of those means which the God of nature had placed in our power. Three millions of people armed in the holy cause of liberty and in such a country as that which we possess are invincible by any force which our enemy can send against us.
>
> Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat but in submission and slavery! Our chains are forged. Their clanking may be heard on the plains of Boston! The war is inevitable — and let it come! I repeat it, sir, let it come!!!
>
> It is vain, sir, to extenuate the matter. Gentlemen may cry, peace, peace; but there is no peace. The war is actually begun! The next gale that sweeps from the north will bring to our ears the clash of resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear or peace so sweet as to be purchased at the price of chains and slavery?
>
> Forbid it, Almighty God — I know not what course others may take; but as for me. . . give me liberty, or give me death![5]

e. The Continental Congress, July 6, 1775, set forth its views in a *Declaration of the Causes and Necessity of Taking up Arms*, quoted here in part:

> . . . We are reduced to the alternative of chusing an unconditional submission to the tyranny of irritated ministers, or resistance by force. The latter is our choice. We counted the cost of this contest, and find nothing so dreadful as voluntary slavery. Honour, justice, and humanity forbid us tamely to surrender that freedom which we received from our gallant ancestors, and which our innocent posterity have a right to receive from us. We cannot endure the infamy and guilt of resigning succeeding generations to that wretchedness which inevitable awaits them, if we basely entail hereditary bondage upon them.
>
> Our cause is just. Our union is perfect. Our internal resources are great, and, if necessary, foreign assistance is undoubtedly attainable. We gratefully acknowledge, as signal instances of the Divine favour towards us, that his Providence would not permit us to be called into this severe controversy, until we were grown up to our present strength, had been previously exercised in warlike operation, and possessed of the means of defending ourselves. With hearts fortified with these animating reflections, we most solemnly, before God and the world, declare that, exerting

> the utmost energy of those powers, which our beneficent Creator hath graciously bestowed upon us, the arms we have been compelled by our enemies to assume, we will, in defiance of every hazard, with unabating firmness and perseverance, employ for the preservation of our liberties; being with one mind resolved to die freemen rather than to live slaves.[6]

f. Tom Paine's pamphlet, *Common Sense*, published in January, 1776, convinced many that the colonies should be independent. Following are a few of his paragraphs:

> I challenge the warmest advocate for reconciliation to show a single advantage that this continent can reap by being connected with Great Britain. I repeat the challenge; not a single advantage is derived. Our corn will fetch its price in any market in Europe, and our imported goods must be paid for, buy them where we will.
>
> But the injuries and disadvantages which we sustain by that connection are without number; and our duty to mankind at large, as well as to ourselves, instructs us to renounce the alliance, because any submission to or dependence on Great Britain tends directly to involve this continent in European wars and quarrels, and sets us at variance with nations who would otherwise seek our friendship, and against whom we have neither anger nor complaint. As Europe is our market for trade, we ought to form no partial connection with any part of it. It is the true interest of America to steer clear of European contentions which she never can do, while, by her dependence on Britain, she is made the makeweight in the scale of British politics . . .
>
> Every quiet method for peace has been ineffectual. Our prayers have been rejected with disdain, and only tended to convince us that nothing flatters vanity or confirms obstinacy in kings more than repeated petitioning; nothing has contributed more than this very measure to make the kings of Europe absolute — witness Denmark and Sweden. Wherefore, since nothing but blows will do, for God's sake let us come to a final separation and not leave the next generation to be cutting throats under the violated unmeaning names of parent and child . . .
>
> Small islands not capable of protecting themselves are the proper objects for kingdoms to take under their care; but there is something absurd in supposing a continent to be perpetually governed by an island. In no instance has nature made the satellite larger than its primary planet; and as England and America, with respect to each other, reverses the common order of nature, it is evident that they belong to different systems; England to Europe, America to itself . . .
>
> No man was a warmer wisher for a reconciliation than myself before the fatal 19th of April, 1775; but the moment the event of that day was made known, I rejected the hardened, sullen-tempered Pharaoh of England forever; and disdain the wretch, that with the pretended title of 'Father of his people' can unfeelingly hear of their slaughter, and composedly sleep with their blood upon his soul . . .
>
> A government of our own is our natural right; and when a man seriously reflects on the precariousness of human affairs, he will become convinced that it is infinitely wiser and safer, to form a constitution of our own in a cool deliberate manner, while we have it in our power, than to trust such an interesting event to time and chance . . .
>
> O! ye that love mankind! Ye that dare oppose, not only the tyranny but the tyrant, stand forth! Every spot of the Old World is overrun with oppression. Freedom has been haunted round the globe. Asia and Africa have long expelled her. Europe regards her like a stranger, and England has given her warning to depart. O! receive the fugitive, and prepare in time an asylum for mankind.[7]

g. Rev. Charles Inglis was a loyalist who did not see common sense in Paine's pamphlet, he favored reconciliation, and wrote in *The True Interest of America*:

> By a declaration for independency, every avenue to an accomodation with Great Britain would be closed; the sword only could then decide the quarrel; and the sword would not be sheathed till one had conquered the other . . .
>
> The seas have been open to our ships; and although some skirmishes have unfortunately happened, yet a ray of hope still cheered both sides that peace was not distant. But, as soon as we declare for independency, every prospect of this kind must vanish. Ruthless war, with all its aggravated horrors, will ravage our once happy land; our seacoasts and ports will be ruined, and our ships taken. Torrents of blood will be spilled, and thousands reduced to beggary and wretchedness . . .
>
> The independency of America would be so fatal to Britain that she would leave nothing in her power undone to prevent it. I believe as firmly as I do my own existence that, if every other method failed, she would try some such expedient as this to disconcert our scheme of independency; and let any man figure to himself the situation of these British colonies, if only Canada were restored to France! . . .

> Besides the unsuitableness of the republican form to the genius of the people, America is too extensive for it. That form may do well enough for a single city or small territory, but would be utterly improper for such a continent as this. America is too unwieldy for the feeble, dilatory administration of democracy. . .[8]

h. During June, 1776, the Continental Congress debated a resolution for independence presented by Richard Henry Lee of Virginia, and Thomas Jefferson kept notes on the opposing arguments. He recorded the fact that a committee was appointed during the debate to draft a declaration of independence, and also a committee to prepare a plan of confederation. The declaration was prepared and was read to the Congress on June 28. By July 1 nine colonies were in favor of the declaration. South Carolina, Delaware, Pennsylvania and New York joined their votes to make it unanimous, with the exception of one delegate from Pennsylvania. Jefferson describes some of the closing compromises:

> Congress proceeded the same day to consider the Declaration of Independence, which had been reported and lain on the table the Friday preceding, and on Monday referred to a committee of the whole. The pusillanimous idea that we had friends in England worth keeping terms with still haunted the minds of many. For this reason, those passages which conveyed censures on the people of England were struck out, lest they should give them offense. The clause, too, reprobating the enslaving the inhabitants of Africa was struck out in complaisance to South Carolina and Georgia, who had never attempted to restrain the importation of slaves, and who, on the contrary, still wished to continue it. Our Northern brethren, also, I believe, felt a little tender under those censures; for though their people had very few slaves themselves, yet they had been pretty considerable carriers of them to others.[9]

i. John Adams wrote home to his wife:

> You will think me transported with enthusiasm, but I am not. I am well aware of the toil, and blood, and treasure, that it will cost us to maintain this declaration, and support and defend these States. Yet, through all the gloom, I can see the rays of ravishing light and glory. I can see that the end is more than worth all the means, and that posterity will triumph in that day's transaction, even although we should rue it, which I trust in God we shall not . . . The second day of July 1776, will be the most memorable epoch in the history of America. I am apt to believe that it will be celebrated by succeeding generations as the great anniversary festival. It ought to be commemorated as the day of deliverance, by solemn acts of devotion to God Almighty. It ought to be solemnized with pomp and parade, with shows, games, sports, guns, bells, bonfires, and illuminations, from one end of this continent to the other, from this time forward forevermore.[10]

j. *The Unanimous Declaration* of the thirteen *United States of America.*

When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariable the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security . . .

We, therefore, the Representatives of the *United States of America,* in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare. That these United Colonies are, and of Right ought to be *free and independent states;* that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.[11]

ISSUE 2: HOW SHOULD THE RACIAL AND RELIGIOUS MINORITIES PARTICIPATE IN THE STRUGGLE FOR INDEPENDENCE?

a. Official orders at the beginning of the Revolution prohibited enlistment of blacks, although they had already participated as soldiers. Horatio Gates, Adjutant General, issued the following *Instruction for Recruiting Troops, Massachusetts Bay, July 10, 1775:*

> You are not to enlist any deserter from the ministerial army, nor any stroller, Negro, or vagabond, or person suspected of being an enemy to the liberty of America, nor any under eighteen years of age.
>
> As the cause is the best that can engage men of courage and principle to take up arms, so it is expected that none but such will be accepted by the recruiting officer; the pay, provision, etc., being so ample, it not doubted but the officers set upon this service will without delay complete their respective corps, and march the men forthwith to the camp.
>
> You are not to enlist any person who is not an American born, unless such person has a wife and family, and is a settled resident in this country.
>
> The person you enlist must be provided with good and complete arms.
>
> Given at the headquarters at Cambridge, this 10th day of July, 1775.[12]

b. Salem Poor was one black who had already distinguished himself in battle at Bunker Hill, and was with the forces at Valley Forge and at White Plains. Fourteen American officers felt moved to write a petition to the legislature on his behalf, praising his conduct:

> The Subscribers beg leave to Report to your Honble House (which we do in justice to the Caracter of so Brave a Man) that under Our Own observation, We declare that a Negro Man Called Salem Poor of Col. Frye's Regiment, Capt Ames Company-in the late Battle at Charlestown, behaved like an Experienced officer, as well as an Excellent Soldier, to set forth Particulars of his Conduct would be Tedious, We would only beg leave to Say in the Person of this Negro Centers a Brave and gallant Soldier. The Reward due to so great and Distinguished a Caracter, We Submit to the Congress--Cambridge, Dec. 5th 1775
>
> Jona Brewer, Col.
> (signed by 13 other officers)
> To the Honorable General Court
> of the Masachusetts Bay[13]

c. The early opinions of the legislature, army and Congress concurred in excluding blacks, whether slave or free:

Massachusetts

> Resolved, That it is the opinion of this committee, as that contest now between Great Britain and the colonies respects the liberties and privileges of the latter, which the colonies are determined to maintain, that the admission of any persons, as soldiers, into the army now raising, but only such as are freemen, will be inconsistent with the procedures that are to be supported, and reflect dishonor on this colony, and that no Slaves shall be admitted into this army upon any consideration whatever.

The Continental Army

> Whether it would be advisable to enlist any negroes in the new Army? or whether there should be a distinction between such as are slaves and those who are free?
>
> Agreed, unanimously, to reject all slaves, and, by a great majority, to reject negroes altogether.

The Continental Congress

> Ought not Negroes be excluded from the new enlistment, especially such as are slaves? All were thought improper by the Council of Officers.
>
> Agreed, That they be rejected altogether.[14]

d. By the summer of 1777, however, towns in New England began to use blacks to fill their quotas, giving freedom to those who were slaves. Connecticut permitted a drafted man to furnish a black substitute. By that time General Washington appears to have concurred:

State of Rhode Island and Providence Plantations
February 14, 1778.

> Whereas, for the preservation of the rights and liberties of the United States, it is necessary that the whole powers of government should be exerted in recruiting the Continental battalions; and whereas, His Excellency Gen. Washington hath enclosed to this state a proposal made to him by Brigadier General Varnum, to enlist into the two battalions, raising by this state, such slaves as should be willing to enter into the service; and whereas, history affords us frequent precedents of the wisest, the freest, and bravest nations having liberated their slaves, and enlisted them as soldiers to fight in defence of their country; and also whereas, the enemy, with a great force, have taken possession of the capital, and of a greater part of this state; and this state is obliged to raise a very considerable number of troops for its own immediate defence, whereby it is in a manner rendered impossible for this state

to furnish recruits for the said two battalions, without adopting the said measure so recommended.

It is voted and resolved, that every ablebodied negro, mulatto, or Indian man slave, in this state, may enlist into either of the said two battalions, to serve during the continuance of the present war with Great Britain.

That every slave, so enlisting, shall be entitled to, and receive, all the bounties, wages, and encouragements, allowed by the Continental Congress, to any soldier enlisting into their service.

It is further voted and resolved, that every slave, so enlisting, shall, upon his passing muster before Col. Christopher Greene, be immediately discharged from the service of his master or mistress, and be absolutely *free*, as though he had never been encumbered with any kind of servitude or slavery.

And in case such slave shall, by sickness or otherwise, be rendered unable to maintain himself, he shall not be chargeable to his master or mistress; but shall be supported at the expense of the state.

And whereas, slaves have been, by the laws, deemed the property of their owners, and therefore compensation ought to be made to the owners for the loss of their service.

It is further voted and resolved, that there be allowed, and paid by this state, to the owner, for every such slave so enlisting, a sum according to his worth; at a price not exceeding Ll20 for the most valuable slave; and in proportion for a slave of less value.[15]

e. Alexander Hamilton in 1779 wrote to John Jay, reasoning that blacks should be enlisted, and observed that the enemy would enlist them if the Americans did not:

> I foresee that this project will have to combat much opposition from prejudice and self-interest. The contempt we have been taught to entertain for the blacks, makes us fancy many things that are founded neither in reason nor experience; and an unwillingness to part with propety of so valuable a kind will furnish a thousand arguments to show the impracticability or pernicious tendency of a scheme which requires such a sacrifice. But it should be considered, that if we do not make use of them in this way, the enemy probably will; and that the best way to counteract the temptations they will hold out will be to offer them ourselves. An essential part of the plan is to give them their freedom with their muskets. This will secure their fidelity, animate their courage, and I believe will have a good influence upon those who remain, by opening a door to their emancipation. This circumstance, I confess, has no small weight in inducting me to wish the success of the project; for the dictates of humanity and true policy equally interest me in favour of this unfortunate class of men . . .
>
> With the truest respect & esteem I am Sir
> Your Most Obed Servant
> Alex Hamilton[16]

f. Lord Dunmore in Virginia had already offered freedom to any blacks who would desert their American masters and bear arms for the British:

> . . . and I do hereby further declare all indented servants, Negroes, or others, (appertaining to Rebels,) free, that are able and willing to bear arms, they joining His Majesty's Troops, as soon as may be, for the more speedily reducing this Colony to a proper sense of their duty to His Majesty's crown and dignity. I do further order and require all His Majesty's liege subjects to retain their quit-rents, or any other taxes due, or that may become due, in their own custody, will such time as peace may be again restored to this, at present, most unhappy Country, or demanded of them for their former salutary pruposes, by officers properly authorised to receive the same.
>
> Given under my hand, on board the Ship William, off Norfolk, the 7th day of November, in the sixteenth year of His majesty's reign.
> God Save the King.
> Dunmore.[17]

g. Thousands of slaves made their way to the British lines, lured by promise of freedom, to such an extent that slave owners asked for men to be deployed to prevent them; as did Richard Barnes of Leonardtown, Maryland, in a letter to Governor Lee:

> I should be glad of your opinion whether it would not be advisable, whilst the Enemy are in the Bay to keep about sixty more men constantly patroling from one part of the City to the other in order to prevent disatisfaction and the negroes going to the Enemy as from the late conduct of the Negroes when those Ships were in St. Marys. I am well satisfied the greatest part of them that are in the City would join them, as I am well informed upwards of twenty five offered themselves to those Ships the night they were in St. Marys. Your answer to the above will oblige Your Most obedient servant.[18]

h. The Virginia Convention at Williamsburg passed a resolution opposing the arming of slaves and defining penalties on any who should seek to join the British:

> Whereas Lord Dunmore, by his proclamation, dated on board the ship William off Norfolk, the 7th day of November, 1775, has offered freedom to such able-bodied slaves as are willing to join him and take up arms against the good people of this colony, giving thereby encouragement to a general insurrection which may induce a necessity of inflicting the severest punishments upon those unhappy people already deluded by his base and insidious arts, and whereas, by an act of the General Assembly now in force in this colony, it is enacted that all Negro or other slaves conspiring to rebel or make insurrection shall suffer death and be excluded all benefit of clergy — we think it proper to declare that all slaves who have been, or shall be, seduced by his Lordship's proclamation, or other arts, to desert their master's service, and take up arms against the inhabitants of this colony, shall be liable to such punishment as shall hereafter be directed by the Convention.[19]

i. Blacks served in most phases of the war, on both sides. For the British they were primarily a labor force, but some were spies, foragers, orderlies, and a few were under arms. Many blacks who responded to Lord Dunmore's offer were transported to Florida and the West Indies, and some were taken to Canada. Some were involuntary participants in the form of germ warfare practiced in that century: sick with small pox, some were distributed to the "Rebell Plantations."[20] Not all blacks employed by the British had joined voluntarily: some were supplied by loyalists, while others were in territory or towns under British control and were commandeered.

About 5,000 blacks served on the side of the rebels, as volunteers in the army, spies, draftees, or as substitutes for white draftees. There were a few separate black fighting companies, but most served in integrated units. There were seven hundred free Haitian blacks with the French forces at the siege of Savannah in 1779, among whom was Henri Christophe, who later led in the fight for independence in Haiti. While fighting for the liberty of the colonists, it was only natural that many should call attention to the inconsistency of slavery. Among various petitions of that time there is an eloquent one addressed by a group of blacks to the General Assembly of the State of Connecticut, 1779, from which the following selection is taken:

> . . . Your Honours who are notably contending, in the Cause of Liberty, whose Conduct excites the Admiration, and Reverence, of all the great Empires of the World; will not resent, our thus freely animadverting, on this detestable Practice; altho our Skins are different in Colour, from those whom we serve, Yet Reason & Revelation join to declare, that we are the Creatures of that God, who made of one Blood, and Kindred, all the Nations of the Earth; we perceive by our own Reflection, that we are endowed with the same Faculties with our masters, and there is nothing that leads us to a Belief, or Suspicion, that we are any more obliged to serve them, than they us, and the more we Consider of this matter, the more we are Convinced of our Right (by the Laws of Nature and by the whole Tenor of the Christian Religion, so far as we have been taught) to be free; we have endeavoured rightly to understand what is our Right, and what is our Duty, and can never be convinced that we were made to be Slaves. Altho God almighty may justly lay this, and more upon us, yet we deserve it not, from the hands of Men. We are impatient under the previous Yoke, but our Reason teaches us that it is not best for us to use violent measures, to cast it off; we are also convinced, that we are unable to extricate ourselves from our abject State; but we think we may with the greatest Propriety look up to your Honours, (who are the fathers of the People) for Relief. And we not only groan under our own burden, but with concern, & Horror, look forward, & contemplate, the miserable Condition of our Children, who are training up, and kept in Preparation, for a like State of Bondage, and Servitude. We beg leave to submit, to your honours serious Consideration, whether it is consistent with the present Claims, of the united States, to hold so many Thousands, of the race of Adam, our Common Father, in perpetual Slavery.[21]

j. There were numerous proposals to free those blacks who served in the war.

Congressman Eustis Describes Negro Soldiers

> At the commencement of the Revolutionary war, there were found in the Middle and Northern States, many blacks, and other people of color, capable of bearing arms; a part of them free, the greater part slaves. The freemen entered our ranks with the whites. The time of those who were slaves was purchased by the States; and they were induced to enter the service in consequence of a law, by which, on condition of their serving in the ranks during the war, they were made freemen. In Rhode Island, where their numbers were more considerable, they were formed, under the same considerations, into a regiment commanded by white officers; and it is required, in justice to them, to add, that they discharged their duty with zeal and fidelity. The

> gallant defence of Red Bank, in which this black regiment bore a part, is among the proofs of their valor.
>
> Among the traits which distinguished this regiment was their devotion to their officers: when their brave Col. Greene was afterwards cut down and mortally wounded, the sabres of the enemy reached his body only through the limbs of his faithful guard of blacks, who hovered over him and protected him, every one of whom was killed, and whom he was not ashamed to call his children . . .
>
> The war over, and peace restored, these men returned to their respective states; and who could have said to them, on their return to civil life, after having shed their blood in common with the whites in the defense [sic] of the liberties of the country: You are not to participate in the rights secured by the struggle, or in the liberty for which you have been fighting? Certainly no white man in Massachusetts.[32]

k. Slaves won their freedom not only by fighting in the war but also in the courts. In Massachusetts the case of Quock Walker vs. Nathaniel Jennison, 1783, was the first under the new constitution of the state and especially its Declaration of Rights:

> . . . But whatever sentiments have formerly prevailed in this particular or slid in upon us by the example of others, a different idea has taken place with the people of America, more favorable to the natural rights of mankind, and to that natural, inmate desire of Liberty, which with Heaven (without regard to color, complexion, or shape of noses-features) has inspired all the human race. And upon this ground our Constitution of Government, by which the people of this commonwealth have solemnly bound themselves, sets out with declaring that all men are born free and equal and that every subject is entitled to liberty, and to have it guarded by the laws, as well as life and property — and in short is totally repugnant to the idea of being born slaves. This being the case, I think the idea of slavery is inconsistent with our own conduct and Constitution; and there can be no such thing as perpetual servitude of a rational creature, unless his liberty is forfeited by some criminal conduct or given up by personal consent or contract. . .[33]

l. Both sides in the Revolution attempted to gain Indian allies, but the British were more successful. In the colonies there was much apprehension over what the British might succeed in arousing the Indians to do. The provincial Congress of New York wrote to the Continental Congress:

> The importance and the necessity of attention to Indian affairs is more endangered by the situation of the barbarians to the westward of us, than it can be by any inroads made upon the seacoast. Britain will spare the last for her own sake, and policy will teach her ministers to light upon an Indian war upon our frontier, that we may be drawn for protection to embrace the terms of slavery.[34]

At first the general policy of Continental Congress was to ensure Indian neutrality. In an address to the Six Nations in 1775 the Congress tried to explain the quarrel with the king, and then urged:

> This is a family quarrel between us and Old England. You Indians are not concerned in it. We don't wish you to take up the hatchet against the king's troops. We desire you to remain at home, and not join on either side, but keep the hatchet buried deep.[35]

The Delawares and the Oneidas were the principal tribes that gave assistance to the United states. Americans being the greatest threat to Indian lands, and also being unable to provide trade goods in the abundance that the British could supply, they were unable to persuade many Indians to their side. The point of view of many Indians is reflected in the words of Delaware chief Buckongahelas, in 1775 when his tribe was being encouraged to assist the British:

> Friends and kinsmen! Listen to what I say to you! You see a great and powerful nation divided! You see the father fighting against the son, and the son against the father! The father has called on his Indian children, to assist him in punishing his children, the Americans, who have become refractory! I took time to consider what I should do whether or not I should receive the hatchet of my father, to assist him! At first I looked upon it as a family quarrel, in which I was not interested — However, at length it appeared to me, that the father was in the right; and his children deserved to be punished a little! That this must be the case, I concluded from the many cruel acts his offspring had committed from time to time, on his Indian children; in encroaching on our land, stealing their men, women, and children — Yes! even murdering those, who at times had been friendly to them, and were placed for protection under the roof of their father's house. The father himself standing centry at the door, at the time.
>
> Friends! Often has the father been obliged to settle, and make amends for the wrongs and mischiefs done to us, by his refractory children, yet these do not grow better! No! they remain the same, and will continue to do so, as long as we have any land left us! Look back at the murders committed by the Long Knives on many of our

> relations, who lived peaceable neighbors to them on the Ohio! Did they not kill them without the least provocation? Are they, do you think, better now than they were then? No, indeed not; and many days are not elapsed since you had a number of these very men at your doors, who panted to kill you, but fortunately were prevented from doing so by the Great sun, (the name the Indians had given to Col. Daniel Broadhead) who, at that time, had been ordained by the Great Spirit to protect you![26]

m. Participation of Jews in the Revolution was notably represented by the financial contributions of Haym Saloman, whose name it is said, appeared almost daily in the diary of Robert Morris in the frequent statement, "I went to Haym Saloman. . ."[27] Arrested by the British for spying, he was once condemned to die, but managed to escape.

The first Jew to die for his new country was Francis Salvador, a plantation owner of South Carolina, and an associate with Charles Pinckney and Edward Rutledge. Salvador had been elected to the First and Second Provincial Congresses, which took steps to rebel against the British, and he had served on committees concerned with the progress of the war. With Major Andrew Williamson and a company of about 40 militiamen, he was sent on an expedition to round up troops to save the colonies from Indian attacks which were being incited by the English. Ambushed by Indians, Salvador was found lying in a bush, scalped but still alive. He asked whether the enemy was beaten, and hearing the affirmative, he shook his major's hand and died.[28]

ISSUE 3: HOW SHOULD THE NEW NATION STRENGTHEN ITS UNION AND RESOLVE THE CONFLICT OF STATE VS NATIONAL AUTHORITY?

a. Steps toward union had been attempted many years before the colonies declared independence. Among the earliest was the *Albany Plan of Union*, formulated by Benjamin Franklin in 1754, when some kind of union was desirable to counterbalance the French influence on the Indians. It was said that Indians themselves "commended" the idea to the colonials, and that the Iroquois Confederacy provided a model for a union of "independent" states. Franklin himself acknowledged some stimulation from the Indian example when he wrote to a friend in 1751:

> . . . It would be a very strange thing if Six nations of ignorant savages should be capable of forming a scheme for such a union, and be able to execute it in such a manner, as that it has subsisted for ages, and appears indissoluble; and yet to whom it is more necessary and must be more advantageous, and whom cannot be supposed to want an equal understanding of their interests.[29]

The common interests of the colonies in 1754 were not sufficient to overcome their rivalries, and the effort failed. The Indians left the conference expressing the opinion that the English were "like women: bare and open, without fortifications."[30]

b. The rebellion against the mother country made some form of union necessary. The Stamp Act Congress of 1765 had been one of the earliest examples of unified action. Committees of Correspondence led to the formation of a Continental Congress in 1774, composed of 56 delegates, representing 12 colonies. (Georgia and Nova Scotia sent no delegates.) This first Congress set up the Continental Association, whose primary purpose was economic: to cut off trade with Britain. Its political effect was to help weld the rebelling colonies together. The Second Continental Congress assembled after the fighting at Lexington and Concord. It performed the duties of a government: organized an army, appointed a commander in chief; declared the independence of the rebelling colonies; drew up the plan of union known as the Articles of Confederation, which wasn't ratified by the 13th colony (Maryland) until 1781. Maryland had held out because several states would not relinquish their claim to Western lands. Following are excerpts from the Articles:

> **Articles of Confederation and perpetual union between the states of New Hampshire, Massachusetts Bay, Rhode Island and providence plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.**
>
> Article I. The style of this confederacy shall be "The United States of America."
>
> Article II. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States in Congress assembled.
>
> Article III. The said states hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever . . .

The Articles of Confederation gave to the central government the power to conduct international affairs, regulate trade and manage Indian affairs. Its prerogative to conduct a war was limited by the lack of any power to tax to support a war. It could not impose import duties, but it could collect postal revenue. It had no means to enforce its powers, but was dependent on the good will of the states. Each state had one vote regardless of its size or population. A unanimous vote was required for amendment. Canada was invited to join the Confederation but declined. The Articles stipulated that any other colony would need the affirmative vote of at least nine states before it could be admitted.

c. The inherent weaknesses of the Articles of Confederation were aggravated by a time of economic difficulty, and it was not long before several leaders in the fledgling nation were seeking a stronger plan of union. The following paragraphs from an exchange of letters between John Jay and George Washington in 1786 illustrate the concern that led to the call for a constitutional convention:

John Jay to George Washington

> To oppose popular prejudices, to censure the proceedings, and expose the improprieties of states is an unpleasant task, but it must be done. Our affairs seem to lead to some crisis, some revolution – something that I cannot foresee or conjecture. I am uneasy and apprehensive; more so than during the war.[31]

George Washington to John Jay

> . . . Your sentiments, that our affairs are drawing rapidly to a crisis, accord with my own. What the event will be is also beyond the reach of my foresight. We have errors to correct. We have probably had too good an opinion of human nature in forming our confederation. Experience has taught us that men will not adopt and carry into execution measures the best calculated for their own good without the intervention of a coercive power. I do not conceive we can exist long as a nation without having lodged somewhere a power which will pervade the whole Union in as energetic a manner as the authority of the state governments extends over the several states. . .[31]

The humanitarian physician Benjamin Rush of Philadelphia, was moved by the growing chaos under the Articles to deliver a stirring address to his countrymen in favor of a new constitution. The following paragraphs from that address will portray his point of view and zeal:

> There is nothing more common than to confound the terms of American Revolution with those of the late American war. The American war is over, but this is far from being the case with American Revolution. On the contrary, nothing but the first act of the great drama is closed. It remains yet to establish and perfect our new forms of government; and to prepare the principles, morals, and manners of our citizens for these forms of government after they are established and brought to perfection.
>
> The confederation, together with most of our state constitutions, were formed under very unfavorable circumstances. We had just emerged from a corrupted monarchy. Although we understood perfectly the principles of liberty, yet most of us were ignorant of the forms and combinations of power in republics. Add to this, the British army was in the heart of our country spreading desolation wherever it went; our resentments, of course, were awakened. We detested the British name, and unfortunately refused to copy some things in the administration of justice and power in the British government which have made it the admiration and envy of the world. In our opposition to monarchy, we forgot that the temple of tyranny has two doors. We bolted one of them by proper restraints; but we left the other open, by neglecting to guard against the effects of our own ignorance and licentiousness. . .
>
> I am extremely sorry to find a passion for retirement so universal among the patriots and heroes of the war. They resemble skillful mariners who, after exerting themselves to preserve a ship from sinking in a storm in the middle of the ocean, drop asleep as soon as the waves subside, and leave the care of their lives and property during the remainder of the voyage to the sailors without knowledge or experience. Every man in a republic is public property. His time and talents, his youth, his manhood, his old age — nay, more, his life, his all — belong to his country.
>
> Patriots of 1774, 1775, 1776 – heroes of 1778, 1779, 1780! Come Forward! Your country demands your services! Philosophers and friends to mankind, come forward! Your country demands your studies and speculations! Lovers of peace and order who declined taking part in the late war, come forward! Your country forgives your timidity and demands your influence and advice! Hear her proclaiming, in sighs and groans, in her governments, in her finances, in her trade, in her manufactures, in her morals, and in her manners, "The Revolution is not over!"[32]

d. When the Constitutional Convention met in Philadelphia in 1787, it included men who had participated in the Revolution in every way, men of practical political experience as well as ideals. Theirs was the task to create a government which would embody the ideals of the Revolution in an enduring union which would have adequate power to act as a nation, as well as to protect the rights of individuals and states. The fifty-five delegates were nearly all the able and dedicated men of the time. Only John Jay, John Adams and Thomas Jefferson were missing among those one would expect to be there. Jefferson was in Paris, but his concern led him incessantly to write his views to the American leaders. James Madison kept notes, which are the principal source of the proceedings which went on behind closed doors. The following excerpt from one of his entries illustrates the debate which occurred on one of the most difficult issues: the balance of representation in Congress for large and small states:

> The great difficulty lies in the affair of representation; and if this could be adjusted, all others would be surmountable. It was admitted by both the gentlemen from New Jersey (Mr. Brearly and Mr. Paterson) that it would not be *just to allow Virginia*, which was sixteen times as large as Delaware, an equal vote only. Their language was that it would not be *safe for Delaware* to allow Virginia sixteen times as many votes. The expedient proposed by them was that all the states should be thrown into one mass and a new partition be made into thirteen equal parts. Would such a scheme be practicable? The dissimilarities existing in the rules of property as well as in the manners, habits, and prejudices of the different states amounted to a prohibition of the attempt . . .
>
> The prospect of many new states to the westward was another consideration of importance. If they should come into the Union at all, they would come when they contained but a few inhabitants. If they should be entitled to vote according to their proportions of inhabitants, all would be right and safe. Let them have an equal vote and a more objectionable minority than ever might give law to the whole.[13]

The issue was settled by the device of having two branches of the national Congress: one in which all states would have equal representation, and the other which would be in proportion to the populations of each state. It was in resolving the problem of representation that slavery became institutionalized in the new constitution. The question was, should slaves be counted in the population that determined representation? Another compromise was agreed upon. Three fifths of the slaves would be counted toward representation.

> . . . Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. . .[14]

e. The Constitution was completed on September 17, 1787, but its acceptance had yet to be won. On the closing day of the convention Dr. Franklin presented a written speech in favor of unanimous consent by all of the delegates. It concluded as follows:

> . . . I hope, therefore, that for our own sakes as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution (if approved by Congress and confirmed by the conventions) wherever our influence may extend, and turn our future thoughts and endeavors to the means of having it well administered.
>
> On the whole, sir, I cannot help expressing a wish that every member of the Convention who may still have objections to it would, with me, on this occasion doubt a little of his own infallibility and, to make manifest our unanimity, put his name to this instrument.[15]

Thirty nine of the fifty-five members of the convention signed, but the debate for ratification by the states still lay ahead. Those in favor of adopting the Constitution came to be known as Federalists, and those opposed, Anti-Federalists.

Thomas Jefferson praised the Constitution but agreed with those who advocated a Bill of Rights, as he states in this letter to James Madison, in 1787:

> I like much the general idea of framing a government which should go on of itself peaceably, without needing continual recurrence to the state legislatures. I like the organization of the government into legislative, judiciary, and executive. I like the power given the legislature to levy taxes, and for that reason solely I approve of the greater House being chosen by the people directly. For though I think a House so chosen will be very far inferior to the present Congress, will be very illy qualified to legislate for the Union, for foreign nations, etc., yet this evil does not weigh against the good of preserving inviolate the fundamental principle that the people are not to be taxed but by representatives chosen immediately by themselves. I am captivated by the compromise of the opposite claims of the great and little states, of the latter to equal, and the former to proportional influence. I am much pleased, too, with the substitution of the method of voting by person, instead of that voting by states, and I like the negative given to

> the executive, conjointly with a third of either House; though I should have like it better had the judiciary been associted for that purpose, or invested separately with a similar power. There are other good things of less moment.
>
> I will now tell you what I do not like. First, the omission of a bill of rights, providing clearly and without the aid of sophism for freedom of religion, freedom of the press, protection against standing armies, restriction of monopolies, the eternal and unremitting force of the habeus corpus laws, and trials by jury in all matters of fact triable by the laws of the land and not by the laws of nations. . .
>
> Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular; and what no just government should refuse or rest on inference.[36]

George Mason of Virginia expressed the concerns of those who felt that the Constitution had changed the confederation into a national government, and that popular government was impractical over an extensive territory.

> Mr. Chairman, whether the Constitution be good or bad, the present clause clearly discovers that it is a national government and no longer a confederation. I mean that clause which gives the first hint of the general government laying direct taxes. The assumption of this power of laying direct taxes does, of itself, entirely change the confederation of the states into one consolidated government. This power, being at discretion, unconfined and without any kind of control must carry everything before it. The very idea of converting what was formerly a confederation to a consolidated government is totally subversive of every principle which has hitherto governed us.
>
> This power is calculated to annihilate totally the state governments. Will the people of this great community submit to be individually taxed by two different and distinct powers? Will they suffer themselves to be doubly harassed? These two concurrent powers cannot exist long together; the one will destroy the other: the general government being paramount to and in every respect more powerful than the state governments, the latter must give way to the former. Is it to be supposed that one national government will suit so extensive a country, embracing so many climates and containing inhabitants so very different in manners, habits, and customs?[37]

Madison, Hamilton, and Jay supported ratification of the Constitution in a series of papers which became known as *The Federalist*. John Jay sought to persuade his fellow-New Yorkers in a pamphlet, praised by Washington for its "good sense and forcible observations," from which the following selections are taken:

> The question now before us now naturally leads to three inquiries:
>
> 1. Whether it is probable that a better plan can be obtained?
> 2. Whether, if attainable, it is likely to be in season?
> 3. What would be our situation if, after rejecting this, all our efforts to obtain a better should prove fruitless?
>
> The men who formed this plan are Americans who had long deserved and enjoyed confidence, and who are as much interested in having a good government as any of us are or can be. . .
>
> Let those who are sanguine in their expectations of a better plan from a new convention also reflect on the delays and risk to which it would expose us. Let them consider whether we ought, by continuing much longer in our present humiliated condition, to give other nations further time to perfect their restrictive systems of commerce, to reconcile their own people to them, and to fence and guard and strengthen them by all those regulations and contrivances in which a jealous policy is ever fruitful. Let them consider whether we ought to give further opportunities to discord to alienate the hearts of our citizens one from another, and thereby encourage new Cromwells to bold exploits. Are we certain that our foreign creditors will continue patient and ready to proportion their forbearance to our delays? Are we sure that our distresses, dissensions, and weakness will neither invite hostility nor insult? If they should, how ill prepared shall we be for defense! Without union, without government, without money, and without credit!. . .
>
> You cannot but be sensible that this plan or constitution will always be in the hands and power of the people, and that if on experiment it should be found defective or incompetent, they may either remedy its defects or substitute another in its room. The objectionable parts of it are certainly very questionable, for otherwise there would not be such a contrariety of opinions about them. Experience will better determine such questions than theoretical arguments. . .
>
> Receive this address with the same candor with which it is written; and may the spirit of wisdom and patriotism direct and distinguish your councils and your conduct.[38]

What the Constitutional Convention had produced was not an amendment of the Articles of Confederation, but rather a new plan of government. Article VII of the new constitution stipulated that "The Ratification of the Conventions of nine States shall be sufficient for the Establishment of this Constitution between the States so ratifying the same." This provision overcame the obstacle created by the requirement in the Articles that alterations had to be confirmed by all the thirteen legislatures. In calling for ratifying conventions, they appealed directly to the authority of the people.

Although only nine states were needed for establishment of the new government it was felt imperative to have the support of the four largest states. Of these Pennsylvania and Massachusetts were among the first nine, but not until Virginia and New York, who were 10th and 11th to ratify, did the Congress arrange for its own dissolution by calling for national elections under the new constitution.

ISSUE 4: HOW SHOULD THE NEW NATION RESOLVE THE CONFLICTING CLAIMS OF INDIANS, THE BRITISH, AND VARIOUS STATES OVER THE LAND KNOWN AS THE "OLD NORTHWEST TERRITORY"?

a. Roughly defined, the land between the Appalachian Mountains and the Mississippi, (east to west) the Ohio River and the Great Lakes, (south to north) comprised the Northwest Territory. British claims were relinquished by the treaty following the Revolution, although an unofficial presence was maintained there. There were Indians who counted much of the territory as their home land. Following the outbreak of the Revolution the States resumed titles to their western lands, some of which were conflicting. One of the first orders of business under the Articles of Confederation was to resolve the problem of the western lands. In 1780 the Continental Congress resolved, in part:

> . . . that the unappropriated lands that may be ceded or relinquished to the United States, by any particular States, pursuant to the recommendation of Congress on the 6 day of September last, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which shall become members of the Federal Union, and shall have the same rights of sovreignty, freedom and independence, as the other states;. . .[39]

b. On recommendation of the Congress, New York, Connecticut and Virginia ceded their land claims to the United States, and Jefferson introduced a plan for the organization of government in the western territory which provided for the formation of ten states, with such exotic names as "Dolypotamia, Assenissippia, and Metropotamia". It also provided that "After the year 1800 there shall be neither slavery nor involuntary servitude in any of the said states,"[40] but this clause lost by one vote. A Land Ordinance of 1785 entitled "An Ordinance for ascertaining the mode of disposing of lands in the Western Territory" stipulated that the lands ceded to the United States, which had been purchased of the Indian inhabitants, should be surveyed so as to be divided

> . . . into townships of six miles square, by lines running due north and south, and others crossing these at right angles, as near as may be, unless where the boundaries of the late Indian purchases may render the same impracticable. . .
>
> There shall be reserved for the United States out of every township the four lots, being numbered 8, 11, 26, 29, and out of every fractional part of a township, so many lots of the same numbers as shall be found thereon, for future sale. There shall be reserved the lot No. 16, of every township, for the maintenance of public schools within the said township; also one-third part of all gold, silver, lead and copper mines, to be sold, or otherwise disposed of as Congress shall hereafter direct. . . [41]

c. The pressures of a group of land speculators known as the Ohio Company caused Congress to make the administration of western lands more specific, with the provisions of the Northwest Ordinance of 1787. This ordinance was significant because it set a precedent which was followed in the management of territorial expansion in the next century. Following are selections from the ordinance:

The Northwest Ordinance

An Ordinance for the government of the Territory of the United States northwest of the River Ohio.

> ART. 1. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.
>
> ART. 2. The inhabitants of the said territory shall always be entitled to the benefits of the writ of *habeas corpus* and of the trial by jury; of a proportionate representation of the people in the legislature; and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty

or property, but by the judgment of his peers or the law of the land; and, should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts or engagements, *bona fide*, and without fraud, previously formed.

> ART 3. Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and, in their property, rights and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in juistice and humanity, shall from time to time be made for preventing wrongs being done to them, and for preserving peace and friendship with them.
>
> ART. 4. The said territory, and the States which may be formed therein, shall forever remain a part of this Confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, comformable thereto. . .
>
> ART. 5. There shall be formed in the said territory, not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established. . .
>
> ART. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: Provided, always, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.[42]

d. The "utmost good faith" clause in the Northwest Ordinance, from an Indian point of view, was ironical at best. There were violent struggles with the Indians in the Ohio country, including an American defeat under General St. Clair in which six hundred men were killed. Washington's estimate of the situation was expressed in a letter to James Duane, in 1783:

> . . . To suffer a wide extended Country to be overrun with Land Jobbers, speculators, and monopolizers, or even with scattered settlers, is in my opinion inconsistent with that wisdom and policy, which our true interest dictates, or that an enlightened people ought to adopt; and, besides, is pregnant with disputes both with the Savages and among ourselves, the evils of which are easier to be conceived than described. And for what, but to aggrandize a few avaricious men, to the prejudice of many and the embarrassment of Government?. . .
>
> I am clear in my opinion, that policy and economy point very strongly to the expediency of being upon good terms with the Indians, and the propriety of purchasing their lands in preference to attempting to drive them by force of arms out of their Country; which, as we have already experienced, is like driving the wild Beasts of ye forest, which will return as soon as the pursuit is at an end, and fall perhaps upon those that are left there; when the gradual extension of our settlements will as certainly cause the savage, as the wolf, to retire; both being beasts of prey, tho' they differ in shape. In a word, there is nothing to be obtained by an Indian war, but the soil they live on, and this can be had by purchase at less expense, and without that bloodshed and those distresses, which helpless women and children are made partakers of in all kinds of disputes with them. . .[43]

e. South of the Ohio, in Kentucky and Tennessee, where Spain had not yet relinguished all claims, settlers were pouring into new lands in great numbers. One observer described the rush for land in Kentucky as follows:

> . . . I cannot omit noticing the many distressed families I passed. . . traveling a wilderness through ice and snow; passing large rivers and creeks without shoe or stocking and barely as many rags as covers their nakedness; without money or provisions, except what the wilderness affords – the situation of such can better be imagined than described. To say they are poor is but faintly expressing their situation — Life, what is it, or what can it give, to make compensation for such accumulated misery? Ask these pilgrims what they expect when they get to Kentucky. The answer is land. "Have you any?" "No, but I expect I can git it." "Have you anything to pay for land?" "No." "Did you ever see the country?" "No, but everybody says it's good land."
>
> Can anything be more absurd than the conduct of man? Here are hundreds, traveling hundreds of miles — they know not for what nor whither, except it's to Kentucky — passing land almost as

> good and easy obtained, the proprietors of which would gladly give on any terms. But it will not do. It's not Kentucky. It's not the Promised Land. It's not the goodly inheritance, the Land of Milk and Honey. And when arrived at this Heaven in Idea, what do they find? A goodly land, I will allow, but to them forbidden land. Exhausted and worn down with distress and disappointment, they are at last obliged to become hewers of wood and drawers of water. . . [44]

ISSUE 5: SHOULD THE UNITED STATES ENCOURAGE MANUFACTURING, COMMERCE AND BANKING, OR REMAIN PRIMARILY AN AGRICULTURAL STATE?

This was one of several issues over which Hamilton and Jefferson debated.

a. Hamilton's View of the Good Society

> It is now proper. . . to enumerate the principal circumstances from which it may be inferred that manufacturing establishments not only occasion a positive augmentation of the produce and revenue of the society, but that they contribute essentially to rendering them greater than they could possibly be without such establishments. These circumstances are:
>
> 1. The division of labor.
> 2. An extension of the use of machinery.
> 3. Additional employment to classes of the community not ordinarily engaged in the business.
> 4. The promoting of emigration from foreign countries.
> 5. The furnishing greater scope for the diversity of talents and dispositions, which discriminate men from each other.
> 6. The affording a more ample and various field for enterprise.
> 7. The creating, in some instances, a new, and securing, in all, a more certain and steady demand for the surplus produce of the soil.
>
> Each of these circumstances has a considerable influence upon the total mass of industrious effort in a community; together, they add to it a degree of energy and effect which are not easily conceived.[45]

b. Jefferson's View of the Good Society

> Those who labor in the earth are the chosen people of God, if ever He had a chosen people, whose breasts he has made His peculiar deposit for substantial and genuine virtue. It is the focus in which he keeps alive that sacred fire, which otherwise might escape from the face of the earth. Corruption of morals in the mass of cultivators is a phenomenon of which no age nor nation has furnished an example. It is the mark set on those, who, not looking up to heaven, to their own soil and industry, as does the husbandman, for their subsistence, depend for it on casualties and caprice of customers. Dependence begets subservience and venality, suffocates the germ of virtue, and prepares fit tools for the designs of ambition. This, the natural progress and consequence of the arts, has sometimes perhaps been retarded by accidental circumstances; but, generally speaking, the proportion which the aggregate of the other classes of citizens bears in any State to that of its husbandmen, is the proportion of its unsound to its healthy parts. . . While we have land to labor then, let us never wish to see our citizens occupied at a workbench, or twirling a distaff. . . For the general operations of manufacture, let our workshops remain in Europe.[46]

Thousands of miles away on the other side of the continent, an American ship found the entrance to the Columbia River, which had long veiled its presence from passing mariners, although English, Spanish, and Russian captains had scanned the coast for many years. Alexander Mackenzie had crossed Canada by land, to be followed in a few years by enterprising fur traders. Coming up from New Spain, Father Junipera Serra established a line of missions, and Juan Bautista de Anza was sent with a colony of settlers to occupy the San Francisco area. Within the next seventy-five years these men and events would be cited at conference tables to help determine the boundary lines and home sites for future generations of Americans.

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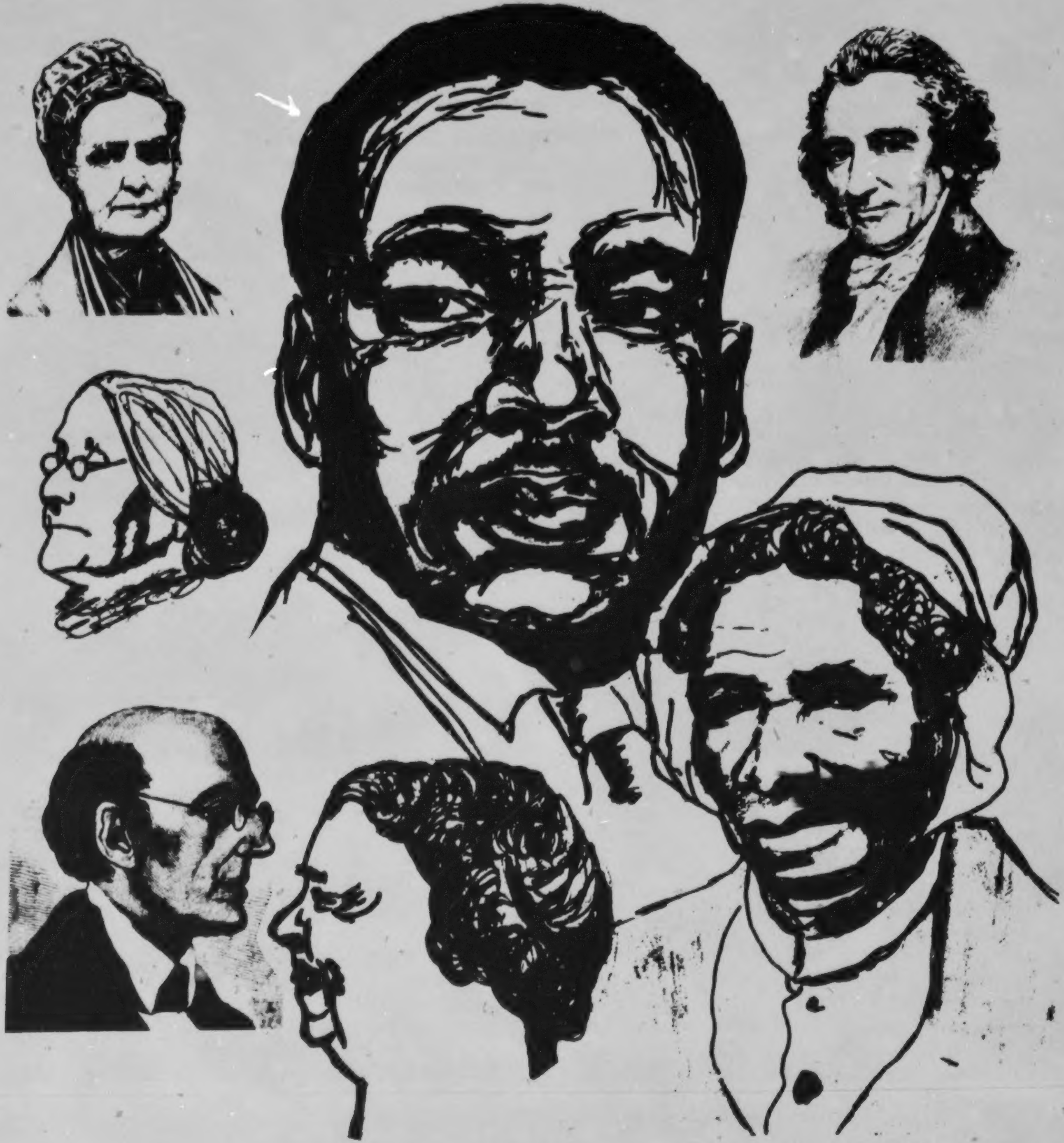

Chapter III

Establishing the New Nation, 1800-1865

INTRODUCTION

The years between 1800 and 1860 were marked by dramatic movement and conflict, as well as thoughtful effort on the part of statesmen to define and implement the new nation's constitution.

While land filled up along the Atlantic seaboard, settlements erupted in wilderness clearings across the Appalachian Mountains, and trading posts, like that of Jean DuSable in Chicago, exploded into towns and cities. Gunfire between ships on Lake Erie and a historic blaze in Washington, D.C., signaled the unpopular War of 1812, punctuated tardily by rifle and cannon fire outside New Orleans. Indian peoples tried in vain to keep their traditional homelands, by battle, by treaty, and even by appeal to the Supreme Court. Americans settled in Mexican lands in Texas, and eventually declared an independent state there. A tide of black humanity could be seen flowing in and out of new cotton plantations in Alabama, Mississippi and Louisiana, and a smaller tide of white humanity flowed in and out of New England factories. Children labored the same long hours as adults. Ships at Atlantic ports unloaded thousands of immigrants, fugitive from the famines and wars of Europe. In the state captiols and the halls of Congress the issues of states rights, slavery, and territorial expansion were debated with sincere and impassioned oratory on both sides. The Underground Railroad silently delivered escaped blacks into free territory, across the border into sanctuary in Canada, while indignant slave owners pressured their lawmakers to recover their human "property." Abolitionists and women's rights advocates combined forces to demand freedoms mentioned in the Declaration of Independence. Meanwhile, in the West the trails over the prairies and mountains broadened into rutted roads filled with covered wagons creaking toward the Rocky Mountains, accompanied by their shrinking herds of weary, thirsty cattle. The trail split three ways: toward Santa Fe, Sacramento, and Oregon City. Gold in California attracted a scramble of all classes and races of people, even from across the Pacific, and an unpopular war with Mexico added the Southwest to territory controlled by the United States.

Finally the voice of Abraham Lincoln could be heard warning the nation that it could not continue to exist half slave and half free, and the booming of explosions at Fort Sumter heralded the mortal agony which had to precede a new birth of freedom.

ISSUES

1. What should the relationship between state and federal authority?

2. Should the nation expand into lands already occupied by other peoples?

3. Who should have the right to vote?

4. To whom should the opportunities for an education be extended?

5. How should the nation react to the arrival of large numbers of immigrants?

6. What should the nation do about the institution of slavery?

SELECTIONS RELATED TO THE ISSUES

ISSUE 1. WHAT SHOULD BE THE RELATIONSHIP OF STATE AND FEDERAL AUTHORITY?

States' Rights *vs.* Central Authority: The issue of states' rights vs. central authority was troublesome from the earliest days of the new nation. In question was the nature of the federal union, from which both Northern and Southern states would occasionally threaten to withdraw, long before the secessions of 1860 and 1861. It was a question of sovereignty: whether it could be divided between the national government and state governments, and, if it could not be divided, which took precedence? Also, who should decide in the matter of precedence? The Alien and Sedition laws just before the turn of the century had provided a test case. When Kentucky and Virginia presented resolutions asserting the sovereignty of states, the Massachusetts Senate replied, ". . . This legislature are persuaded that the decision of all cases in law and equity arising under the Constitution of the United States. . . are exclusively vested by the people in the judicial courts of the United States. . ."[1]

During John Marshall's long tenure on the United States Supreme Court he upheld the doctrine of the precedence of the central authority. His decision in the case of *McCullough vs. Maryland* contained the following arguments:

> If any one proposition could command the universal assent of mankind, we might expect it would be this — that the government of the Union though limited in its powers is supreme within its sphere of action. This would seem to result necessarily from its nature. It is the government of all; its powers are delegated by all; it represents all; and acts for all. Though any one state may be willing to control its operations, no state is willing to allow others to control them. The nation, on those subjects on which it can act, must necessarily bind its component parts.
>
> But this question is not left to mere reason: the people have, in express terms, decided it by saying, "this Constitution, and the laws of the United States, which shall be made in pursuance thereof, shall be the supreme law of the land," and by requiring that the members of the state legislatures, and the officers of the Executive and Judicial departments of the state shall take the oath of fidelity to it.
>
> The government of the United States, then, though limited in its powers is supreme; and its laws, when made in pursuance of the Constitution, form the supreme law of the land, anything in the constitution or laws of any state to the contrary notwithstanding. . .[2]

Those who favored the supremacy of the central authority pointed out that the Preamble of the Constitution began with the words, "We the people of the United States. . . ," and not, "We, the States . . .," nor even, "We, the people of the States. . ."

On the other hand, frequently a State or group of States would claim the right of "nullification," which meant that a State had the right to declare "null and void" any federal law which it believed to be unconstitutional. States' rights arguments were very appealing whenever an action of the central government seemed to be counter to the local interests of a given state, whether in North or South. One instance occurred in South Carolina, in 1832, when that state was resisting acts of Congress relating to tariffs. After detailing the various acts and explaining their Constitutional position, the special session of the South Carolina legislature declared:

> That the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities. . . and, more especially,. . . [the tariff acts of 1828 and 1832]. . . , are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens; and all promises, contracts and obligations, made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void.[3]

Supporting South Carolina's doctrine of nullification, John C. Calhoun resigned the vice-presidency in order to address the Senate on the subjects of the tariff and his states' rights theory of the Constitution:

> We, the people of South Carolina, assembled in convention in our sovereign capacity as one of the parties to the compact which formed the Constitution of the United States, have declared the act of Congress, approved the 14th of July, 1832, to alter and amend the several acts imposing duties on imports, and the acts which it alters and amends to be unconstitutional, and therefore null and void; and have invested the legislature of the state with power to adopt such measures, not repugnant to the Constitution of the United States nor of this state, as it may deem proper to carry the same into effect . . .
>
> We, then, hold it as unquestionable that on the separation from the Crown of Great Britain, the people of the several colonies became free and independent states, possessed of the full right of self-government; and that no power can be rightfully exercised over them but by the consent and authority of their respective states, expressed or implied. We also hold it as equally questionable that the Constitution of the United States is a compact between the people of the several states, constituting free, independent, and sovereign communities; that the government it created was formed and appointed to execute, according to the provisions of the instrument, the powers therein granted as the joint agent of the several states; . . .
>
> Correctly understood, the government has not the right to add a particle to its powers; and to assume, on its part, the exercise of a power not granted, is plainly to oppose the confederated authority of the states . . .

> Such, at least, is our conviction; and we have acted accordingly.[4]

President Andrew Jackson replied to South Carolina's declaration with plain speech, which included the following:

> I consider, then, the power to annul a law of the United States, assumed by one state, incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed.
>
> Our Constitution does not contain the absurdity of giving power to make laws and another to resist them. The sages whose memory will always be reverenced have given us a practical and, as they hoped a permanent constitutional compact. The father of his country did not affix his revered name to so palpable an absurdity. Nor did the states, when they severally ratified it, do so under the impression that a veto on the laws of the United States was reserved to them or that they could exercise it by implication. Search the debates in all their conventions, examine the speeches of the most zealous opposers of federal authority, look at the amendments that were proposed; they are all silent — not a syllable uttered, not a vote given, not a motion made to correct the explicit supremacy given to the laws of the Union over those of the states, or to show that implication, as is now contended, could defeat it.[5]

The issue was far from settled. Aggravated and agitated by the slavery issue, it was a factor in American politics until, after repeated attempts at compromise, it precipitated civil war. More than a century later a young Baptist minister addressing a huge throng at the Lincoln Memorial would refer to the doctrines of "nullification and interposition" in his stirring message in behalf of civil rights.

ISSUE 2: SHOULD THE NATION EXPAND INTO LANDS ALREADY OCCUPIED BY OTHER PEOPLE?

The years from 1800 to 1860 were not only a time for the nation to define itself, but also a time when the United States expanded "From sea to shining sea." This expansion was regarded as inevitable by Thomas Jefferson, who wrote, in 1801, "It is impossible not to look forward to distant times, when our rapid multiplication will. . . cover the whole northern if not the southern continent."

a. The Louisiana Purchase, which Jefferson himself implemented, was the first major acquisition of new territory in the 19th century. Americans in the West needed free access to navigation of the Mississippi River and the port of New Orleans. Defeat of Napoleon's army in Santo Domingo, and potential threat of war with Great Britain, helped the French emperor decide to sell the vast stretch of territory north of the Spanish claims in the S.W., between the Mississippi River and the Rocky mountains for $15,000,000. But even before the sale was accomplished Jefferson had sent his secretary, Meriwether Lewis, with William Clark, to explore the land and make contact with the Indians there. Part of his instructions to Lewis included the following:

> Your situation as secretary of the president of the United States has made you acquainted with the objects of my confidential message of Jan. 18, 1803, to the legislature. You have seen the act they passed, which though expressed in general terms, was meant to sanction those objects, and you are appointed to carry them into execution. . .
>
> The object of your mission is to explore the Missouri River, and such principal stream of it, as, by its course and communication with the water of the Pacific Ocean may offer the most direct and practicable water communication across this continent, for the purposes of commerce.
>
> Beginning at the mouth of the Missouri, you will take observations of latitude and longitude at all remarkable points on the river, and especially at the mouths of rivers, at rapids, at islands, and other places and objects distinguished by such natural marks and characters of a durable kind, as that they may with certainty be recognized hereafter . . .
>
> The commerce which may be carried on with the people inhabiting the line you will pursue renders a knowledge of these people important. You will therefore endeavor to make yourself acquainted, as far as a diligent pursuit of your journey shall admit, with the names of the nations and their numbers; the extent and limits of their possessions; their relations with other tribes or nations; their language, traditions, monuments, their ordinary occupations in agriculture, fishing, hunting, war, arts, and the implements for these; their food, clothing, and domestic accommodations; the diseases prevalent among them, and the remedies they use; moral and physical circumstance which distinguish them from the tribes they know; peculiarities in their laws, customs and dispositions; and articles

> of commerce they may need or furnish and to what extent. . .
>
> In all your intercourse with the natives, treat them in the most friendly and conciliatory manner which their own conduct will admit; allay all jealousies as to the object of your journey, satisfy them of its innocence; make them acquainted with the position, extent, character, peaceable and commercial dispositions of the U.S., of our wish to be neighborly, friendly, and useful to them, and of our dispositions to a commercial intercourse with them; confer with them on the points most convenient, as mutual emporiums and the articles of most desirable interchange for them and us.[6]

The first impressions of the Shoshoni Indians when they saw Lewis and Clark were reported (as recollected years later) to an American Fur agent, Warren Ferris, in 1831, and began as follows:

> After several moons, however, this state of tranquil happiness was interrupted by the unexpected arrival of two strangers. They were unlike any people we had hitherto seen, fairer than ourselves, and clothed with skins unknown to us. They seemed to be descended from the regions of the great "Edle-a-ma-hum." They gave us things like solid water, which were sometimes brilliant as the sun, and which sometimes showed us our own faces. Nothing could equal our wonder and delight. We thought them the children of the Great Spirit. But we were destined to be again overwhelmed with fear, for we soon discovered that they were in possession of the identical thunder and lightning that had proved in the hands of our foes so fatal to our happiness. We also understood that they had come by the way of Beaver-head River, and that a party of beings like themselves were but a day's march behind them.
>
> Many of our people were now exceedingly terrified, making no doubt but that they were leagued with our enemies the Blackfeet, and coming jointly to destroy us. This opinion was strengthened by a request they made for us to go and meet their friends. At first this was denied, but a speech from our beloved chief, who convinced us that it was best to conciliate if possible the favor of a people so terribly armed, and who might protect us, especially since our retreat was discovered, induced most of our warriors to follow him and accompany the strangers to their camp. As they disappeared over a hill in the neighborhood of our village, the women set up a doleful yell, which was equivalent to bidding them farewell forever, and which did anything but elevate their drooping spirits.[7]

Conscious of the inconsistency with his position as an advocate of strict interpretation of the Constitution, and confessing that he "had stretched the Constitution until it cracked," Jefferson prepared a constitutional amendment to authorize the Louisiana Purchase. The opposition he anticipated was ably expressed by Samuel White, Senator from Delaware, which included the following sentiments.

> But as to Louisiana, this new, immense, unbounded world, if it should ever be incorporated into this Union, which I have no idea can be done but by altering the Constitution, I believe it will be the greatest curse that could at present befall us; it may be productive of innumerable evils, and especially of one that I fear even to look upon. Gentlemen on all sides, with very few exceptions, agree that the settlement of this country will be highly injurious and dangerous to the United States; but as to what has been suggested of removing the Creeks and other nations of Indians from the eastern to the western banks of the Mississippi, and of making the fertile regions of Louisiana a howling wilderness, never to be trodden by the foot of civilized man, it is impracticable. . .
>
> . . . you had as well pretend to inhibit the fish from swimming in the sea as to prevent the population of that country after its sovereignty shall become ours. To every man acquainted with the adventurous, roving, and enterprising temper of our people, and with the manner in which our western country has been settled, such an idea must be chimerical. The inducements will be so strong that it will be impossible to restrain our citizens from crossing the river. Louisiana must and will become settled if we hold it. . .[8]

As implied in the quotation above, the subject of Indian homelands was in the minds of the leaders of America at the time of the Purchase. It was not only a matter of taking claim to lands occupied by Indian nations, but also it was anticipated that Eastern Indians could be persuaded to move.

b. The Cherokee Removal demonstrated the policy of the United States toward the Indians of the Southeast, who also included the Creeks, Choctaws, Chickasaws and the Seminoles. The Cherokees, who had adopted European agriculture and other mechanical skills, and later devised an alphabet and produced printed literature, attracted a commendation from Thomas Jefferson that proved ironic:

> You are becoming farmers, learning the use of the plough and the hoe, enclosing your grounds and employing that labor in their cultivation which you formerly employed in hunting and in

> war; and I see handsome specimens of cotton cloth raised, spun and wove by yourselves. You are also raising cattle and hogs for your food, and horses to assist your labors. Go on, my children, in the same way and be assured the further you advance in it the happier and more respectable you will be. . .[9]

Whatever Jefferson meant by "respectable," it did not mean that their treaty rights were going to be respected. In 1813, during the War of 1812, the Cherokees appealed through the United States Indian agent to the "Citizens of the United States — particularly to the good people living in the states of Tennessee, North Carolina, South Carolina, Georgia, and Mississippi territory" in the following carefully worded plea:

> Neighbors, Friends and Brothers — By the rapid progress of settlements in the western part of the United States, our country is now nearly surrounded by our white brothers; our intercourse with you keeps pace with your and our populations. . .
>
> . . . The intrusions on our lands are serious causes of complaint, they are deliberate acts of fraudulent calculation, not induced by sudden impulse of passion; they are meditated on the pillow, and to aggravate the nature of these breaches of law and justice, every intruder has his rifle and all the apparatus of a warrior — for what? to defend his just rights? No, but to keep forcible possession, to keep the rightful owner out of his patrimony, descended to him from his ancestors from time immemorial.[10]

Although the Cherokees could cite treaties that upheld their sovereignty, the situation was complicated by the fact that in 1802 the State of Georgia had ceded her western land claims in return for a promise that the government would extinguish Indian titles in the state "as early as the same can be peaceably obtained on reasonable terms." Andrew Jackson, victorious veteran of many Indian battles, supported the effort to remove the Indians to the west of the Mississippi River; in the following parts of his first message to Congress he stated his position:

> . . . A portion, however, of the Southern tribes, having mingled much with the whites and made some progress in the arts of civilized life, have lately attempted to erect an independent government within the limits of Georgia and Alabama. These states, claiming to be the only sovereigns within their territories, extended their laws over the Indians, which induced the latter to call upon the United States for protection. . .
>
> . . . I informed the Indians inhabiting parts of Georgia and Alabama that their attempt to establish an independent government would not be countenanced by the Executive of the United States, and advised them to emigrate beyond the Mississippi or submit to the laws of those States. . .
>
> . . . This emigration should be voluntary, for it would be as cruel as unjust to compel the aborigines to abandon the graves of their fathers and seek a home in a distant land. But they should be distinctly informed that if they remain within the limits of the States they must be subject to their laws. In return for their obedience as individuals they will without doubt be protected in the enjoyment of those possessions which they have improved by their industry. . ."[11]

The injustice to the Cherokee nation was the cause of fierce debate in Congress. Representative Edward Everett of Massachusetts appealed to Georgia to "recede." His persuasion included the following arguments:

> . . . Sir, if Georgia will recede, she will do more for the Union, and more for herself, than if she would add to her domain the lands of all the Indians, though they were paved with gold.
>
> The evil, Sir, is enormous; the inevitable suffering incalculable. Do not stain the fair fame of the country; it has been justly said, it is in the keeping of Congress, on this subject. It is more wrapped up in this policy, in the estimation of the civilized world, than in all your other doings. Its elements are plain, and tangible, and few. Nations of dependent Indians, against their will, under color of law, are driven from their homes into the wilderness. You cannot explain it; you cannot reason it away. The subtleties which satisfy you will not satisfy the severe judgment of enlightened Europe. Our friends will view this measure with sorrow, and our enemies alone with joy. And we ourselves, Sir, when the interests and passions of the day are past, shall look back upon it, I fear, with self-reproach, and a regret as bitter as unavailing.[12]

The Cherokees appealed to the Supreme Court of the United States, and Chief Justice John Marshall upheld their appeal in the following unequivocal terms:

> The acts of the legislature of Georgia interfere forcibly with the relations established between the United States and the Cherokee nation, the regulation of which, according to the settled principles of our Constitution, is committed exclusively to the government of the Union.
>
> They are in direct hostility with treaties, repeated in a succession of years, which mark out the boundary that separates the Cherokee country from Georgia; guaranty to them all the

> land within their boundary; solemnly pledge the faith of the United States to restrain their citizens from trespassing on it; and recognise the pre-existing power of the nation to govern itself.
>
> They are in equal hostility with the acts of Congress for regulating this intercourse and giving effect to the treaties.
>
> The forcible seizure and abduction of the plaintiff in error, who was residing in the nation, with its permission, and by authority of the president of the United States, is also a violation of the acts which authorize the chief magistrate to exercise this authority.[13]

The response of the president was reported to be: "John Marshall has made his decision. Now let him enforce it." The president who had stood against nullification in the case of the tariff now in effect supported nullification.

All Cherokee efforts to make the United States honor its own laws failed; in May 1838, Gen. Winfield Scott arrived at the Cherokee Nation with an army of seven thousand men (to deal with a total Cherokee population of about fourteen thousand, including women, children, and the aged) and began rounding up the Cherokee people. Family by family, the Cherokee were taken at gunpoint from their homes and packed into concentration camps from which they were to be shipped to Indian Territory (Oklahoma). A few made the trip by river boat; most went overland on the Trail of Tears and left approximately four thousand along the way, dead from starvation, exhaustion, exposure and disease. This did not prevent U.S. President Van Buren from bragging to Congress that "the measures (for Cherokee removal) authorized by Congress. . . have had the happiest effects. . . The Cherokee have emigrated without any apparent reluctance. . ."

c. Texas, formerly a part of New Spain, was colonized by American settlers with the encouragement of the newly-independent Mexican government. In 1836 the American colony declared its independence in a document which stated grievance in a manner reminiscent of the 1776 prototype. It is worth noting, in the light of twentieth century Chicano demands for bilingual education, that the Texas Declaration included a complaint about government by "a hostile majority in an unknown tongue." The document included these paragraphs:

> The Mexican government, by its colonization laws, invited and induced the Anglo-American population of Texas to colonize its wilderness under the pledged faith of a written constitution that they should continue to enjoy that constitutional liberty and republican government to which they had been habituated in the land of their birth, the United States of America. In this expectation they have been cruelly disappointed, in as much as the Mexican nation has acquiesced in the late changes made in the government by General Antonio Lopez de Santa Anna, who having overturned the constitution of his country, now offers as the cruel alternative either to abandon our homes, acquired by so many privations, or submit to the most intolerable of all tyranny, the combined despotism of the sword and the priesthood.
>
> It has sacrificed our welfare to the State of Coahuila, by which our interests have been continually depressed through a jealous and partial course of legislation carried on at a far distant seat of government by a hostile majority, in an unknown tongue; and this to, notwithstanding we have petitioned in the humblest terms, for the establishment of a separate state government, and have, in accordance with the provisions of the national constitution presented to the General Congress a republican constitution which was, without just cause, contemptuously rejected.[14]

Mexico's response to the Texas Declaration of Independence was the arrival of General Santa Anna himself, with 4,000 troops. When they besieged the Texans in the Alamo Mission in San Antonio, Colonel William B. Travis sent out the following appeal for help:

> Fellow Citizens and Compatriots:
>
> I am besieged by a thousand or more of the Mexicans under Santa Anna. I have sustained a continued bombardment for twenty-four hours and have not lost a man. The enemy have demanded a surrender at discretion; otherwise the garrison is to be put to the sword if the place is taken. I have answered the summons with a cannon shot, and our flag still waves proudly from the walls.
>
> I shall never surrender or retreat.
>
> Then, I call on you in the name of liberty, of patriotism, and of everything dear to the American character to come to our aid with all dispatch. The enemy are receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. Though this call may be neglected, I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due to his own honor and that of his country. Victory or death!
>
> W. Barret Travis
> Lieutenant Colonel Commanding
>
> P.S. The Lord is on our side. When the enemy appeared in sight, we had not three bushels of

> corn. We have since found, in deserted houses, eighty or ninety bushels and got into the walls twenty or thirty head of beeves.[15]

After the Texans won their independence, the next issue was annexation to the United States. The anti-slavery partisans of the North were vehement in their denunciation of annexation, as, for example, William Ellery Channing:

> Having unfolded the argument against the annexation of Texas from the criminality of the revolt, I proceed to a second very solemn consideration, namely, that by this act our country will enter on a career of encroachment, war and crime, and will merit and incur the punishment and woe of aggravated wrongdoing. The seizure of Texas will not stand alone. It will darken our fututre history. It will be linked by an iron necessity to long continued deeds of rapine and blood. Ages may not see the catastrophe of the tragedy, the first scene of which we are so ready to enact. . .
>
> Texas is the first step to Mexico. The moment we plant our authority on Texas, the boundaries of those two countries will become nominal, will be little more than lines on the sand of the seashore. In the fact that portions of the Southern and Western states are already threatened with devastation through the impatience of multitudes to precipitate themselves into the Texan land of promise, we have a pledge and earnest, of the flood which will pour itself still farther south, when Texas shall be but partially overrun. . .
>
> The history of the connection of such men with the Indians forewarns us of the outrages which would attend their contact with the border inhabitants of our southern neighbor. Texas, from its remoteness from the seat of government, would be feebly restrained by the authorities of the nation to which it would belong. Its whole early history would be a lesson of scorn for Mexico, an education for invasion of her soil.[16]

"Manifest Destiny" was a phrase destined to idealize and confer a sense of divine mission on the expansion of the United States. It was probably used first in 1845 by John O'Sullivan in an article favoring the annexation of Texas. O'Sullivan attempted to answer the anti-slavery arguments by claiming that annexation would create an outlet for the "disappearance of slavery from all the northern tier of the present slave states." He pointed out that other nations were hostile to the policy of annexation, "for the avowed object of thwarting our policy and hampering our power, limiting our greatness and checking the fulfillment of our manifest destiny to overspread the continent allotted by Providence for the free development of our yearly multiplying millions."[17] He stated further:

> On the other hand, it is undeniably much gained for the cause of the eventual voluntary abolition of slavery, that it should have been thus drained off toward the only outlet which appeared to furnish much probability of the ultimate disappearance of the Negro race from our borders.
>
> The Spanish-Indian-American populations of Mexico, Central America, and South America, afford the only receptacle capable of absorbing that race whenever we shall be prepared to slough it off — to emancipate it from slavery, and (simultaneously necessary) to remove it from the midst of our own. Themselves already of mixed and confused blood, and free from the "prejudices" which among us so insuperably forbid the social amalgamation which can alone elevate the Negro race out of a virtually servile degradation; even though legally free the regions occupied by those populations must strongly attract the black race in that direction; and as soon as the destined hour of emancipation shall arrive, will relieve the question of one of its worst difficulties, if not absolutely the greatest. . . [17]

At the conclusion of his long article O'Sullivan's confidence in Manifest Destiny grew strong enough to embrace even Canada:

> Whatever progress of population there may be in British Canadas, is only for their own early severance of their present colonial relation to the little island 3000 miles across the Atlantic; soon to be followed by annexation, and destined to swell the still accumulating momentum of our progress.[17]

d. Oregon. In 1845 President Polk's inaugural address affirmed the right of the United States to annex both Texas and Oregon, but significantly it did not mention Indian homelands in those regions. With regard to Oregon he said:

> Nor will it become in a less degree my duty to assert and maintain by all constitutional means the right of the United States to that portion of our territory which lies beyond the Rocky Mountains. Our title to the country of the Oregon is "clear and unquestionable," and already are our people preparing to perfect that title by occupying it with their wives and children.[18]

The Oregon country became a Territory of the United States in 1848, following the crisis created by the Whitman Massacre and the Cayuse War. That crisis dramatized the fact that although Great Britain and the United States had agreed on boundaries, the vast Oregon Territory was still the homeland of many Indian nations. Between 1853 and 1855 several agreements and treaties were negotiated by Joel Palmer, Superintendent of Indian Affairs for the Oregon Territory, and by Governor Isaac Stevens of Washington Territory, (which had been separated from Oregon in 1853). Piece by piece, the land was ceded to the United States by tribes of Indians whose names are familiar as place-names to Northwest residents, while the stories behind the names are relatively unknown: Rogue, Molalla, Umpqua, Clackamas, Nisqually, Tumwater, Puyallup, Kalapuya, Walla Walla, Yakima, Wasco, Quinault, and others. The treaties usually defined the boundaries, the price to be paid, the reservations to which the Indians were to be removed, and the provision that there might be future removals to different reserves. They promised that the United States would provide a physician, a blacksmith, a school, and sometimes a person to teach farming. A suggestion of future pressure toward individual land-ownership, along with encouragement to farming, revealed the culture-change which the government had been fostering ever since the days of Thomas Jefferson. Several items were to be "under the direction of the President." Later, Joel Palmer was removed from office because many white men thought he was too considerate of the Indians.

Typical of the Oregon Indian treaties is the one negotiated with the confederated tribes of the Willamette Valley: ". . . the Kalapuya, etc., 1855." It details the transfer of the land which later became the population center of Oregon. Following are some of the significant provisions:

> Article I. The above-named confederated bands of Indians cede to the United States all their right, title, and claim to all and every part of the country included in the following boundaries, to wit:
>
> Commencing in the middle of the main channel of the Columbia River, opposite the mouth of the first creek emptying into said river from the south below Oak Point, thence south to the first standard parallel north of the base-line in the Government survey, thence west to the summit of the Coast Range of mountains, thence southerly along the summit of said range to the Calapooia Mountains, thence easterly along the summit of said mountains to the summit of the Cascade Mountains, thence along said summit northerly, to the middle of the Columbia River, at the Cascade Falls, and thence down the middle of said river to the place of beginning.
>
> Provided, however, that said bands be permitted to remain within the limits of the country ceded, and on such temporary reserve as may be made for them by the superintendent of Indian affairs, until a suitable district of country shall be designated for their permanent home, and proper improvements made thereon: And provided, that the United States make proper provision for the security of their persons and property from the hostile attacks of Indians of other tribes and bands . . .
>
> Article II. In consideration of, and payment for the country herein described, the United States agree to pay to the bands and tribes of Indians claiming territory and residing in said country, the several sums of money following, to wit:
>
> Ten thousand dollars per annum for the first five years, commencing on the first day of September, 1855.
>
> Eight thousand dollars per annum for the term of five years next succeeding the first five.
>
> Six thousand five hundred dollars per annum for the term of five years next succeeding the second five.
>
> Five thousand five hundred dollars per annum for the term of five years next succeeding the third five.
>
> All of which several sums of money shall be expended for the use and benefit of the confederated bands, under the direction of the President of the United States, who may, from time to time, at his discretion, determine what proportion thereof shall be expended for such object as in his judgement will promote their well-being, and advance them in civilization, for their moral improvement and education, for building, opening and fencing farms, breaking land, providing stock, agricultural implements, seeds, &c: for clothing, provisions, and tools; for medical purposes; providing mechanics and farmers, and for arms and ammunition.
>
> The United States agree to pay said Indians the additional sum of fifty thousand dollars, a portion wherefore shall be expended for such articles as the superintendent of Indian affairs shall furnish the Indians, as soon as practicable after the signing of this treaty . . .
>
> Article III. In addition to the considerations specified, the United States agree to provide for the employment, for the term of five years from and after the removal of said Indians to their permanent reserve, of a physician, a school-

teacher, a blacksmith, and a superintendent of farming operations . . .

> Article VI. The confederated bands acknowledge their dependence on the government of the United States, and promise to be friendly with all the citizens thereof . . .[19]

e. The Mexican Cession, as granted by the Treaty of Guadaloupe Hidalgo following the Mexican War, added New Mexico, Arizona, California, and parts of Utah and Nevada to the territory of the United States. The war which produced this treaty was opposed by many Americans, including Emerson, Thoreau, Abraham Lincoln, and Frederick Douglass. Abolitionist Charles Sumner saw the war as a deliberate attempt to extend slavery:

> A war of conquest is bad; but the present war has darker shadows. It is a war for the extension of slavery over a territory which has already been purged by Mexican authority from this stain and curse. Fresh markets of human beings are to be established; further opportunities for this hateful traffic are to be opened; the lash of the overseer is to be quickened in new regions; and the wretched slave is to be hurried to unaccustomed fields of toil. It can hardly be believed that now, more than eighteen hundred years since the dawn of the Christian era, a government, professing the law of charity and justice should be employed in war to extend an institution which exists in defiance of these sacred principles. . .
>
> The object of the bold measure of annexation was not only to extend slavery, but to strengthen the "Slave Power." The same object is now proposed by the Mexican War. This is another link in the gigantic chain by which our country and the Constitution are to be bound to the "Slave Power." This has been proclaimed in public journals. The following passage from the Charleston (S.C.) Courier avows it: "Every battle but insures the acquisition of territory which must widen the field of Southern enterprise and power in future. And the final result will be to re-adjust the balance of power in the confederacy, so as to give us control over the operations of government in all time to come.". . .[20]

James K. Polk had a different opinion:

> The terms of the treaty proposed by the United States were not only just to Mexico but, considering the character and amount of our claims, the unjustifiable and unprovoked commencement of hostilities by her, the expenses of the war to which we have been subjected, and the success which had attended our arms, were deemed to be of a most liberal character . . .
>
> Early after the commencement of the war, New Mexico and the Californias were taken possession of by our forces. Our military and naval commanders were ordered to conquer and hold them, subject to be disposed of by a treaty of peace. These provinces are now in our undisputed occupation, and have been so for many months, all resistance on the part of Mexico having ceased within their limits. I am satisfied that they should never be surrendered to Mexico. Should Congress concur with me in this opinion, and that they should be retained by the United States as indemnity, I can perceive no good reason why the civil jurisdiction and laws of the United States should not at once be extended over them.[21]

Article VIII of the Treaty of Guadaloupe Hidalgo contains provisions of high interest to Mexican Americans, some of whom lost ancestral lands when American government was established:

> Art. VIII. Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account, to any contribution, tax, or charge whatever. . .[22]

Article IX of the treaty was intended to guarantee the civil, political, and religious rights of former Mexican citizens who became American citizens. What it could not take into account was the cultural difference that existed with respect to land claims. Accustomed to careful surveys, documentation, and Anglo-Saxon legal forms, the Americans disregarded the Mexican legal traditions which recognized less precise ownership rights. Moreover, some Anglo-Americans acted on their conviction that conquest gave them the right to settle on land regardless of Mexican ownership, the wording of the treaty article notwithstanding:

> The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States and be admitted, at the proper time (to be judged of by the Congress of the United States) to the

> enjoyment of all the rights of citizens of the United States according to the principles of the Constitution; and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

Article XI recognized the presence of Indians in the ceded lands, and promised that the United States would prevent incursions of Indians into Mexican territory. Although recognizing the possibility of removal of Indians, the United States promised that "special care shall then be taken not to place its Indian occupants under the necessity of seeking new homes, by committing those invasions which the United States has solemnly obliged themselves to restrain."[24]

Frederick Douglass, former slave and now well-known abolitionist and editor of the "North Star", represented eloquently the view of those who opposed a war of territorial expansion, in an editorial of March 17, 1848:

> **Peace! Peace! Peace!**
>
> The shout is on every lip, and emblazoned on every paper. The joyful news is told in every quarter with enthusiastic delight. We are such an exception to the great mass of our fellow countrymen in respect to everything else, and have been so accustomed to hear them rejoice over the most barbarous outrages committed upon an unoffending people, that we find it difficult to unite with them in their general exultation at this time; and, for this reason, we believe that by peace they mean plunder.
>
> In our judgment, those who have all along been loudly in favor of a vigorous prosecution of the war, and heralding its bloody triumphs with apparent rapture, and glorifying the atrocious deeds of barbarous heroism on the part of wicked men engaged in it, have no sincere love of peace, and are not now rejoicing over peace but plunder. They have succeeded in robbing Mexico of her territory, and are rejoicing over their success under the hypocritical pretense of a regard for peace. Had they not succeeded in robbing Mexico of the most important and most valuable part of her territory, many of those now loudest in their professions of favor for peace would be loudest and wildest for war — war to the knife.
>
> Our soul is sick of such hypocrisy. We presume the churches of Rochester will return thanks to God for peace they did nothing to bring about, and boast it as a triumph of Christianity! That an end is put to the wholesale murder in Mexico is truly just cause for rejoicing; but we are not the people to rejoice; we ought rather blush and hang our heads for shame, and, in the spirit of profound humility, crave pardon for our crimes at the hands of a God whose mercy endureth forever.[25]

How the terms of the treaty were actually put into effect can be illustrated by the accounts of how the older, Mexican residents of California tried to keep their land. The twentieth century protests by Chicano groups derive some of their basis from those events, and others like them, in the other parts of the Mexican Cession. A report by John S. Hittell, summing up the work of the Land Commission of 1851, contains these significant portions:

> The establishment of the American dominion in California, made it necessary that the titles to land, owned in the State, under grants from Mexico, should be recognized and protected in accordance with the principles of American law. Protection was due to the land owners under the general principles of equity and the laws of nations, and had been expressly provided in the treaty of Guadalupe Hidalgo . . . The Mexican titles were lacking in many of the conditions necessary to a perfect title under the American law . . . These grants were usually made without any accurate description of the land; there never had been any government survey of any portion of the territory; there were no surveyors in the country to locate the boundaries; neither would the applicants have been willing in most cases to pay for surveys; nor was there any apparent need for them land being very cheap and quarrels about boundaries very rare . . . Mr. Gwin's bill "to ascertain and settle the private land claims in the State of California" became a law, on the 30th of March, 1851. This act provides for the appointment of a special Judicial Committee before which all claimants to land, in the State, under Mexican titles, should bring suit against the Federal Government, within two years after the date of the act, under penalty of forfeiting their land . . . This act provided that the owners of land should sue the Government or lose their land. But why be subjected to so severe a condition? The land owners had committed no offence, that they should be threatened with spoilation . . . When the American Government took California, it was in honor bound to leave the titles to property as secure as they were at the time of the transfer, and express provision to this effect was made in the treaty. Let us imagine that California were to be again transferred to some other power, whose land system is far more complex and strict than our own, and that all our present titles should be declared incomplete and insecure and that every land owner should be taxed to one-fourth of the value of his land to pay

> for defending his title before a foreign and hostile court, and if successful, should not get his title until six or eight years after the commencement of the litigation; — would we not exclaim against it as extremely unjust?[26]

In the end, most of the lands in the Southwest passed into the hands of Anglo-American owners, whether by default, or by court decision, or because the valid owners had to sell it to pay the legal fees and taxes. Furthermore, even the lives of Mexican Americans were unprotected: there were more killings of Mexican Americans in the Southwest than there were lynchings of blacks in the period from 1850 to 1930.

f. Kansas and Nebraska Territories. "The Indian barrier must be removed," stated Stephen Douglas. The Kansas-Nebraska Act, passed by Congress in 1854, provided that two new territories be made from Indian land west of the bend of the Missouri River, north of latitude 37. Although the extension of slavery was part of the debate over the Act, it was also related to the issue of expansion into Indian lands, which had been anticipated in the dispute over the Louisiana Purchase. Its promoter, Senator Stephen Douglas, wrote as follows to a pro-Nebraska convention at St. Joseph, Missouri, in 1854:

> It seemed to have been the settled policy of the government for many years, to collect the various tribes in the different States and organized Territories, and to plant them permanently on the western borders of Arkansas, Missouri and Iowa under treaties guaranteeing to them perpetual occupancy, with an express condition that they should never be incorporated within the limits of territory or state (s) of the Union.[1] This policy evidently contemplated the creation of a perpetual and savage barrier to the further progress of emigration, settlement and civilization in that direction . . .
>
> . . . The Indian barrier must be removed. The tide of emigration and civilization must be permitted to roll onward until it rushes through the passes of the mountains, and spreads over the plains, and mingles with the waters of the Pacific. Continuous lines of settlements with civil, political and religious institutions, all under the protection of law, are imperiously demanded by the highest national considerations. These are essential, but they are not sufficient. No man can keep up with the spirit of this age who travels on anything slower than the locomotive, and fails to receive intelligence by lightning (telegraph). We must therefore have Rail Roads and Telegraphs from the Atlantic to the Pacific, and will not venture to limit the number. The removal of the Indian barrier and the extension of the laws of the United States in the form of Territorial governments are the first steps toward the accomplishment of each and all of those objects. . .[27]

ISSUE 3. WHO SHOULD HAVE THE RIGHT TO VOTE?

a. Property ownership as a qualification. Although the Declaration of Independence had asserted that governments derive their just powers "from the consent of the governed," there was a large proportion of the governed who were never asked for their consent. The voting franchise was generally limited to white, male property owners who had fulfilled the prescribed residence requirements. "To this sentiment," wrote Daniel Webster in 1820, "I entirely agree. It seems to me to be plain that, in the absence of military force, political power naturally and necessarily goes into the hands which hold the property."[28]

The first decades of the nineteenth century saw this position challenged by the new classes of Americans, who were not landowners, but who were demanding the right to vote. Among them were the men who were bound by law to work as slaves and those required to render military service. A Memorial of the non-Free holders of Richmond, Virginia, urging expanded suffrage, included the following argument:

> Let us concede that the right of suffrage is a social right; that it must of necessity be regulated by society. Still the question recurs, is the existing limitation proper? For obvious reasons, by almost universal consent, women and children, aliens and slaves are excluded. It were useless to discuss the propriety of a rule that scarcely admits of diversity of opinion. What is concurred in by those who constitute the society, the body politic, must be taken to be right. But the exclusion of these classes, for reason peculiarly applicable to them, is no argument for excluding others to whom no one of those reasons applies.
>
> It is said to be expedient, however, to exclude nonfreeholders, also. Who shall judge of this expediency? The society. And does that embrace the proprietors of certain portions of land only? Expedient, for whom? For the freeholders. A harsh appellation would he deserve who, on the plea of expediency, should take from another his property. What, then, should be said of him who, on that plea, takes from another his rights, upon which the security, not of his property only but of his life and liberty depends?[29]

The editor of the *New York Journal of Commerce* supported the property qualification:

> By throwing open the polls to every man that walks, we have placed the power in the hands of

> those who have neither property, talents, nor influence in other circumstances, and who require in their public officers no higher qualifications than they possess themselves. It would be a disgrace to the city and to republicanism if a ticket so utterly unworthy as theirs should succeed.[30]

b. Should women be permitted to vote? "To put a woman on the committee with men is contrary to the usages of civilized society," claimed Lewis Tappan. The reform movements of the early nineteenth century included a variety of humanitarian concerns, among which were: prison reform, humane treatment of the insane, abolition of slavery, rights of labor, temperance, extension of educational opportunity, and the extension of voting rights to women. Often the same reformers were active in several causes. Some of the women reformers who combined abolitionism with the fight for women's rights were Susan B. Anthony, Lucy Stone, Lucretia Mott, Julia Ward Howe, and the Grimke sisters, Sarah and Angelina. Likewise, some men who were well known in their anti-slavery activities were also outspoken in behalf of voting rights for women. Among these were William Lloyd Garrison, Wendell Phillips, Frederick Douglass, and a less-known, but tireless militant abolitionist, Rev. Samuel J. May, who included the following exhortation in one of his sermons in 1846:

> Allow me again to speak plainly to you of the rights and condition of women . . . This entire disfranchisement of females is as unjust as the disfranchisement of the males would be; for there is nothing in their moral, mental, or physical nature that disqualifies them to understand correctly the true interests of the community or to act wisely in reference to them . . . I fain would hope that, when next the people frame a constitution for this state, the stupendous fact will not be overlooked that more than one-half of our population are females, to whom equal rights and equal privileges ought to be accorded. . .[31]

A group of Massachusetts women, assisted by Theodore Parker, Bronson Alcott, William Garrison and other reformers, presented a petition to the state legislature in 1853, which included the following arguments in favor of woman suffrage:

> We deem the extension to woman of all civil rights a measure of vital importance to the welfare and progress of the state. On every principle of natural justice, as well as by the nature of our institutions, she is as fully entitled as man to vote and to be eligible to office. In governments based on force, it might be pretended with some plausibility that woman being supposed physically weaker than man should be excluded from the state. But ours is a government professedly resting on the consent of the governed. Woman is surely as competent to give that consent as man. Our Revolution claimed that taxation and representation should be coextensive. While the property and labor of women are subject to taxation, she is entitled to a voice in fixing the amount of taxes and the use of them when collected, and is entitled to a voice in the laws that regulate punishments.
>
> Woman as wife, mother, daughter, and owner of property has important rights to be protected. The whole history of legislation so unequal between the sexes shows that she can not safely trust these to the other sex. Neither have her rights as mother, wife, daughter, laborer ever received full legislative protection. Besides, our institutions are not based on the idea of one class receiving protection from another but on the well-recognized rule that each class, or sex, is entitled to such civil rights as will enable it to protect itself.[32]

The first women's rights convention met at Seneca Falls, New York, in 1848, at the invitation of abolitionists Lucretia Mott and Elizabeth Cady Stanton. The convention produced a "Declaration of Women's Rights," modeled on the famous Declaration of 1776. It included the following:

Declaration of Sentiments

We hold these truths to be self-evident: that all men and women are created equal.

The history of mankind is a history of repeated injuries and usurpations on the part of man toward woman, having in direct object the establishment of an absolute tyranny over her. To prove this, let facts be submitted to a candid world.

He has never permitted her to exercise her inalienable right to the elective franchise.

He has compelled her to submit to laws in the formation of which she had no voice.

He has withheld from her rights which are given to the most ignorant and degraded men, both natives and foreigners.

Having deprived her of this first right of a citizen, the elective franchise, thereby leaving her without representation in the halls of legislation, he has oppressed her on all sides.

He has denied her the facilities for obtaining a thorough education, all colleges being closed against her.

He allows her in church, as well as state, but a subordinate position, claiming apostolic authority for her exclusion from ministry, and, with some exceptions, from any public participation in the affairs of the church.

He has created a false public sentiment by giving to the world a different code of morals for men and women, by which moral delinquencies which exclude women from society are not only tolerated but deemed of little account in man.

He has usurped the prerogative of Jehovah himself, claiming it as his right to assign for her a sphere of action, when that belongs to her conscience and to her God.

He has endeavored, in every way that he could, to destroy her confidence in her own powers, to lessen her self-respect, and to make her willing to lead a dependent and abject life.

Resolutions

Resolved, that it is the duty of the women of this country to secure to themselves their sacred right to the elective franchise.

Resolved, therefore, that, being invested by the Creator with the same capabilities and the same consciousness of responsibility for their exercise, it is demonstrable the right and duty of woman, equally with man, to promote every righteous case by every righteous means; and especially in regard to the great subjects of morals and religions, it is self-evidently her right to participate with her brother in teaching them, both in private and in public, by writing and by speaking, by any instrumentalities proper to be used, and in any assemblies proper to be held; and this being a self-evident truth growing out of the divinely implanted principles of human nature, any custom or authority adverse to it, whether modern or wearing the hoary sanction of antiquity, is to be regarded as a self-evident falsehood, and at war with mankind.[33]

One of the effective and startling figures of the women's rights movement was Sojourner Truth, a tall, gaunt, black woman who had once been a slave in New York State. Twelve of her thirteen children had been sold away from her into slavery. At a convention in 1851 she heard men speaking against equal rights for women on the grounds that women were mentally inferior and required deferential treatment. Her response was included in the account made of the event by Frances D. Gage:

> . . . At her first word there was a profound hush. She spoke in deep tones, which, though not loud, reached every ear in the house, and away through the throng at the doors and windows.
>
> "Wall, chilern, whar dar is so much racket dar must be somethin' out o'kilter . . . What's all dis here talkin' 'bout?
>
> "Dat man ober dar say dat womin needs to be helped into carriages, and lifted ober ditches, and to hab de best place everywhar. Nobody eber helps me into carriages, or ober mud-puddles, or gibs me any best place!" And raising herself to her full height, and her voice to a pitch like rolling thunder, she asked: "And a'n't I a woman? Look at me! Look at my arm! (and she bared her right arm to the shoulder, showing her tremendous muscular power). I have ploughed, and planted, and gathered into barns, and no man could head me! And a'n't I a woman? I could work as much and eat as much as a man -- when I could get it – and bear de lash as well! And a'n't I a woman? I have borne thirteen chilern, and seen 'em mos' all sold off to slavery, and when I cried out with my mother's grief, none but Jesus heard me! And a'n't I a woman?
>
> "Den day talks 'bout dis ting in de head; what dis dey call it?" ("Intellect," whispered someone near.) "Dat's it, honey. What's dat got to do wid womin's rights . . . ? If my cup won't hold but a pint, and yourn holds a quart, wouldn't ye be mean not to let me have my little half measure full?" And she pointed her significant finger, and sent a keen glance at the minister who had made the argument. The cheering was long and loud.
>
> "Den dat little man in black dar, he say women can't have as much rights as men, 'cause Christ wan't a woman! Whar did your Christ come from?" Rolling thunder couldn't have stilled that crowd, as did those deep, wonderful tones, as she stood there with outstretched arms and eyes of fire. Raising her voice still louder, she repeated, "Whar did your Christ come from? From God and a woman! Man had nothin' to do wid Him."[34]

c. Should blacks be permitted to vote? Ironically, at the very time when states were reforming their constitutions, and considering removing property qualifications, free blacks were losing rights which they had previously enjoyed. New York and Pennsylvania are examples of states which "reformed" their constitutions to the exclusion of blacks. In 1821, during the debate in New York, Peter Jay spoke in behalf of preserving the rights of blacks to vote:

> Why, sir, are these men to be excluded from rights which they possess in common with their countrymen? What crime have they committed for which they are to be punished? Why are they, who were born as free as ourselves, natives of the same country, and deriving from nature and our political institutions the same rights and privileges which we have, now to be deprived of all those rights, and doomed to remain forever as aliens among us? . . .
>
> Will you, then, without necessity, and merely to gratify an unreasonable prejudice, stain the constitution you are about to form, with a provision equally odious and unjust, and in direct violation of the principles which you

> profess, and upon which you intend to form it? I trust, I am sure, you will not.[35]

The New York constitutional convention disappointed Peter Jay's confidence; blacks were disfranchised. Seventeen years later a similar convention was held in Pennsylvania, which arrived at a similar decision. In response, "Forty Thousand Citizens Threatened with Disfranchisement" appealed to the People of Pennsylvania in a pamphlet from which the following passages are taken:

> We appeal to you from the decision of the "Reform Convention," which has stripped us of a right peaceably enjoyed during forty-seven years under the constitution of this commonwealth. We honor Pennsylvania and her noble institutions too much to part with our birthright, as her free citizens, without a struggle. To all her citizens the right of suffrage is valuable in proportion as she is free; but surely there are none who can so ill afford to spare it as ourselves.
>
> Was it the intention of the people of this commonwealth that the convention to which the constitution was committed for revision and amendment should tear up and cast away its first principles? Was it made the business of the convention to deny "that all men are born equally free," by making political rights depend upon the skin in which a man is born or to divide what our fathers bled to unite, to wit, taxation and representation?
>
> . . . We love our native country, much as it has wronged us; and in the peaceable exercise of our inalienable rights, we will cling to it . . .
>
> Why should you exclude us from a fair participation in the benefits of the republic? Have we oppressed the whites? Have we used our rights to injury of any class? Have we disgraced it by receiving bribes? Where are the charges written down, and who will swear to them? We challenge investigation. We put it to the conscience of every Pennsylvanian, whether there is, or ever has been, in the commonwealth, either a political party or religious sect which has less deserved than ourselves to be thus disfranchised . . .[36]

ISSUE 4. TO WHOM SHOULD THE OPPORTUNITIES OF PUBLIC EDUCATION BE EXTENDED?

a. Tax-supported Public Education. Should the state provide tax-supported public schools? In Massachusetts, as previously noted, the laws had provided for public elementary education since 1647. The other states varied widely in their provisions. The children of the poor received most of their education at home or at church and charity schools, while the children of the rich had private schools or tutors. Several of the founders of the nation had seen education as necessary for the success of a free, republican government. Dr. Benjamin Rush in 1790 had advocated a statewide system of public schools for Pennsylvania, which in the long run, he insisted, would have the effect of reducing taxes. Thomas Jefferson had observed that "Every government degenerates when trusted to the rulers of the people alone. The people themselves therefore are its only safe depositories. And to render even them safe, their minds must be improved to a certain degree."[37] Noah Webster put it more plainly:

> In several states we find laws passed establishing provision for colleges and academies where people of property may educate their sons, but no provision is made for instructing the poorer rank of people even in reading and writing. . . . The constitutions are *republican* and the laws of education are *monarchical.* The former extend civil rights to every honest industrious man, the latter deprive a large proportion of the citizens of a most valuable privilege. In our American republics, where government is in the hands of the people, knowledge should be universally diffused by means of public schools. . .[38]

During the first decades of the nineteenth century, among other reform movements there was an increasing demand for tax-supported, public elementary education. One such demand was made by a Workingman's Committee, Philadelphia, in 1830, who entitled their proposal, "Equal Knowledge for Equal Liberty," and included the following sentiments:

> When the committees contemplate their own condition and that of the great mass of their fellow laborers; when they look around on the glaring inequality of society, they are constrained to believe that until the means of equal instruction shall be equally secured to all, liberty is but an unmeaning word, and equality an empty shadow, whose substance to be realized must first be planted by an equal education and proper training in the minds, in the habits, in the manners, and in the feelings of the community.
>
> . . . they maintain that each human being has an equal right to a full development of all his powers, moral, physical, and intellectual; that the common good of society can never be promoted in its fullness till all shall be equally secured and protected in the enjoyment of this right, and that it is the first great duty of the state to secure the same to all its members;. . .[39]

There were others who thought it unfair that children of the non-taxpaying poor should have the same privileges as children of tax-payers. An anonymous letter to the *Philadelphia National Gazette* in 1830 illustrated that opinion:

> Authority — that is the state — is to force the more eligibly situated citizens to contribute a part (which might be very considerable) of their means for the accommodation of the rest; and this is equivalent to the idea of an actual, compulsory partition of their substance.
>
> The more thriving members of the "mechanical and other working classes" would themselves feel the evil of the direct taxation; they would find that they had toiled for the benefit of other families than their own. One of the chief excitements to industry among those classes is the hope of earning the means of educating their children respectable or liberally. That incentive would be removed, and the scheme of state and equal education be thus a premium for comparative idleness, to be taken out of the pockets of the laborious and conscientious. . .[40]

When a Pennsylvania law providing free schools was threatened with repeal after only one year, Thaddeus Stevens made a speech in the state legislature which included these paragraphs:

> I will briefly give you the reasons why I shall oppose the repeal of the school law.
>
> If an elective republic is to endure for any great length of time, every elector must have sufficient information, not only to accumulate wealth and take care of his pecuniary concerns but to direct wisely the legislature, the ambassadors, and the executive of the nation — for some part of all these things, some agency in approving or disapproving of them, falls to every freeman. If then, the permanency of our government depends upon such knowledge, it is the duty of government to see that the means of information be diffused to every citizen. This is a sufficient answer to those who deem education a private and not a public duty — who argue that they are willing to educate their own children but not their neighbors' children.
>
> Many complain of this tax, not so much on account of its amount as because it is for the benefit of others and not themselves. This is a mistake; it is for their own benefit, in as much as it perpetuates the government and insures the due administration of the laws under which they live, and by which their lives and property are protected. Why do they not urge the same objection against all other taxes? The industrious, thrifty, rich farmer pays a heavy county tax to support criminal courts, build jails, and pay sheriffs and jail keepers; and yet, probably, he never has, and never will have, any direct personal use of either. He never gets the worth of his money by being tried for a crime before the court, by being allowed the privilege of the jail on conviction, or receiving an equivalent from the sheriff or his hangman officers! He cheerfully pays the tax which is necessary to support and punish convicts, but loudly complains of that which goes to prevent his fellow being from becoming a criminal, and to obviate the necessity of those humiliating institutions.[41]

b. Education for Women. In colonial days girls had usually been permitted to attend such primary educational facilities as existed in their communities, and when the states began to provide for free public education, the elementary schools were usually coeducational. It is only fair to add that these opportunities usually were extended only to white families. Private secondary education existed for those who could afford private schooling. Public secondary education and higher education for women was another matter, and became the concern of the reform movements of the early nineteenth century. Emma Willard opened Troy Female Seminary in 1821, and Catherine Beecher followed with Hartford Female Seminary in 1824. Miss Beecher presented her rationale for women's education in her book *Suggestions Respecting Improvement in Education*, from which the following is taken:

> It is to mothers and to teachers that the world is to look for the character which is to be enstamped on each succeeding generation, for it is to them that the great business of education is almost exclusively committed. And will it not appear by examination that neither mothers nor teachers have ever been properly educated for their profession? What is the profession of a woman? Is it not to form immortal minds, and to watch, to nurse and rear the bodily system, so fearfully and wonderfully made, and upon the order and regulation of which the health and well-being of the mind so greatly depends?
>
> But let most of our sex, upon whom these arduous duties devolve, be asked: Have you ever devoted any time and study, in the course of your education, to any preparation for these duties?
>
> If all females were not only well educated themselves but were prepared to communicate in an easy manner their stores of knowledge to others; if they not only knew how to regulate their own minds, tempers, and habits but how to

> effect improvements in those around them, the face of society would be speedily changed.[42]

One of the early published pleas for better education for women was made by an anonymous black woman who signed herself "Matilda" when she wrote the following letter to the editors of *Freedom's Journal*, in 1827:

> Messrs. Editors,
>
> Will you allow a female to offer a few remarks upon a subject that you must allow to be all-important? I don't know that in any of your papers you have said sufficient upon the education of females. I hope you are not to be classed with those who think that our mathematical knowledge should be limited to "fathoming the dish-kettle," and that we have acquired enough of history if we know that our grandfather's father lived and died. It is true the time has been when to darn a stocking and cook a pudding well was considered the end and aim of a woman's being. But those were days when ignorance blinded men's eyes. The diffusion of knowledge has destroyed those degrading opinions, and men of the present age allow that we have minds that are capable and deserving of culture.
>
> There are difficulties, and great difficulties, in the way of our advancement; but that should only stir us to greater efforts. We possess not the advantages with those of our sex whose skins are not colored like our own, but we can improve what little we have and make our one talent produce twofold. The influence that we have over the male sex demands that our minds should be instructed and improved with the principles of education and religion, in order that this influence should be properly directed. Ignorant ourselves, how can we be expected to form the minds of our youth and conduct them in the paths of knowledge?[43]

Beginning with Oberlin College in 1837, private colleges were the first to become coeducational. Hillsdale college in Michigan (now Hobart) was the first to give a degree to a woman. Elizabeth Blackwell was the first to be granted an M.D. in 1849, at Geneva Medical School in New York. Of the state universities, those in the midwest led the way, in the 1850's, starting probably with Iowa University. State universities that opened after that time were usually coeducational from the beginning. By the 1880's more than 50% of United States colleges admitted women.

c. Education for Blacks. Educational opportunity for blacks differed widely from place to place. During colonial days the Puritans of New England had been concerned for everyone to be able to read the Bible, so that blacks were able to receive primary education. Quakers in Pennsylvania and elsewhere, Anthony Benezet for example, had opened private schools for black children, both free and slave. After the Revolution there were occasional private or public schools for blacks in the North, but the south allowed few such opportunities. After the Gabriel Prosser slave revolt in 1800 laws were passed in the South which were intended to bar slaves from learning to read, so that learning had to be clandestine or, at best, from private teachers. A member of the Virginia legislature admitted: "We have, as far as possible, closed every avenue by which light might enter their minds. If you could extinguish the capacity to see the light, our work would be completed; they would then be on a level with the beasts of the field, and we should be safe!"[44]

Some of the outstanding achievements in the field of education before mid-nineteenth century were by blacks themselves. In New York City the African Free School had enrolled over 500 pupils before the Common Council of the city gave it any support. Several of the black leaders of the abolitionist movement received their early education there. John Chavis in North Carolina taught white children in the daytime, and blacks in the evenings . . . Across the continent, in California, a black teacher by the name of J. B. Sanderson established schools for children who orientals and blacks, from San Francisco to Sacramento. Adult education in the form of "Reading Societies" sprang up in Northern cities. Many adults were self-educated. James W. C. Pennington was an illiterate blacksmith when he escaped from slavery, but in less than ten years he had taught himself to read and write, had studied Greek, Latin, German, and had won a Doctor of Divinity degree from Heidelburg University in Germany.

One example of the efforts of free blacks to provide education in spite of limitations and legal prohibitions was the school of Daniel Payne in Charleston, South Carolina. Payne was a free black who had had three years of formal education. At first he taught three children during the day and three adult slaves at night. Discouraged, he almost, closed his school, but when told that the difference between a master and a slave was "nothing but superior knowledge" he reopened his school. In his autobiography he described some of his early efforts:

> On the first of the year 1830 I re-opened my school, which continued to increase in numbers until the room became too small, and I was constrained to procure a large place. This in turn became too small, and one was built for me . . .

> During the three years of my attendance at the school of Mr. Thomas S. Bonneau I learned how to read, write, and spell; also arithmetic as far as the "Rule of Three". Spelling was a delightful exercise of my boyhood, In this I excelled . . . History was my great delight. Of geography and map-drawing, English grammar and composition I knew nothing, because they were not taught in any of the schools of colored children. . .[He then managed to find a geography and atlas for his classes.]
>
> . . . at the same time with geography I studied and mastered English grammar . . . I therefore added that to my curriculum.
>
> Having now the groundwork, I began to build the superstructure. I commenced with "Playfair's Euclid," and proceeded as far as the first five books. The next thing that arrested my attention was botany . . . Descriptive chemistry, natural philosophy, and descriptive astronomy followed in rapid succession . . .
>
> Then on a Thursday, morning, I bought a Greek grammar, a lexicon, and a Greek Testament. On the same day I mastered the Greek alphabet; on Friday I learned to write them; on Saturday morning I translated the first chapter of Matthew's Gospel from Greek into English. My very soul rejoiced and exulted in this glorious triumph. Next came the Latin and the French. Meanwhile I was pushing my studies in drawing and coloring till I was able to produce a respectable flower, fruit, or animal on paper and on velvet . . .[45]

Whether or not there were occasionally some black children who were able to get an education somehow, and sometimes with startling achievement, was not the important issue to Charles Sumner of Massachusetts. To him it was a matter of right that they be included in the public integrated school facilities. Following are parts of his argument before the Massachusetts State Supreme court, in 1849, on behalf of a five-year-old black girl who had been denied admission to the public school:

> Can any discrimination on account of race or color be made among children entitled to the benefit of our common schools under the constitution and laws of Massachusetts? This is the question which the Court is now to hear, to consider, and to decide.
>
> In opening this argument, I begin naturally with the fundamental proposition which, when once established, renders the conclusion irresistible. According to the constitution of Massachusetts, all men, without distinction of race or color, are equal before the law. In the statement of this proposition I use language which, though new in our country, has the advantage of precision . . .
>
> In conformity with these sections is the peculiar phraseology of the memorable colonial law of 1647, founding common schools, "to the end that learning may not be buried in the graves of our forefathers." This law obliged townships having fifty householders to "forthwith appoint one within their towns to teach all such children as shall report to him to write and read." Here again there is no discrimination among the children. All are to be taught.
>
> On this legislation the common schools of Massachusetts have been reared.
>
> I shall touch them briefly, as they are included in what has been already said.
>
> 1. The separate school for colored children is not one of the schools established by the law relating to public schools. It is not a common school. As such it has no legal existence and, therefore cannot be a legal equivalent . . .
>
> . . . It is absurd to suppose that this city, failing to establish school districts and treating all its territory as a single district, should be able to legalize a caste school, which otherwise it could not do. Boston cannot do indirectly what other towns cannot do directly. This is the first answer to the allegation of equivalents.
>
> 2. The second is that in point of fact the separate school is not an equivalent. We have already seen that it is the occasion of inconvenience to colored children, which would not arise, if they had access to the nearest common school, besides compelling parents to pay an additional tax and inflicting upon child and parent the stigma of caste.
>
> The school is the little world where the child is trained for the larger world of life. It is the microcosm preparatory to the macrocosm, and therefore it must cherish and develop the virtues and the sympathies needed in the larger world. And since, according to our institutions, all classes, without distinction of color, meet in the school, beginning there those relations of equality which the constitution and laws promise to all.[46]

Although laws discriminating against blacks had largely been eliminated in Massachusetts by the 1840's, segregation in schools remained. The School Committee of Boston had turned down several desegregation petitions when the following resolutions were presented to the Committee by a group of black Massachusetts Parents:

> Whereas, we, the colored citizens of the city of Boston, have recently sent a petition to the School Committee respectfully praying for the abolition of the separate schools for colored children, and asking for the rights and privileges extended to other citizens, viz., the right to send our children to the schools established in the respective districts in which we reside; and
>
> Whereas, the School Committee, at their last meeting, passed a vote stating, in substance, that the prayer of our petition would not be granted, and that the separate schools for colored children would be continued; and
>
> Whereas, we believe, and have the opinion of eminent counsel, that the institution and support of separate schools, at the public charge, for any one class of the inhabitants in exclusion of any other class is contrary to the laws of this Commonwealth; therefore,
>
> Resolved, that we consider the late action of the School Committee, in regard to our petition asking for the entire abolition of separate schools for colored children, as erroneous and unsatisfactory.
>
> . . . and that the colored parents of this city are recommended to withdraw their children from the exclusive school established in contravention of that equality of privileges which is the vital principle of the school system of Massachusetts.

ISSUE 5: HOW SHOULD THE NATION REACT TO THE ARRIVAL OF LARGE NUMBERS OF IMMIGRANTS?

After the Napoleonic Wars there came new waves of immigration from Europe, to the extent that jobs became scarce and the immigrants experienced great difficulties. In 1816 the Shamrock Society of New York prepared a booklet to assist newcomers from Ireland. In it they expressed some of their faith in America, along with their welcome and advice. Following are some samples of their advice:

> That hospitality which, as Mr. Jefferson says, the savages of the wilderness extended to the first settlers arriving in this land, cannot be denied by a free, civilized, and Christian people to brethren emigrating from the countries of their common fathers; and the exercise of it is peculiarly agreeable to us who have (some of us) been induced by a similarity of fate and fortunes with your own to quit the lands of our nativity and seek freedom and happiness in America . . .
>
> All that a first conversation with an emigrant can properly embrace will fall under three heads: first, what relates to his personal safety in a new climate; second, his interests as a probationary resident; and, third, his future rights and duties as a member of a free state . . .
>
> Do you ask by this time with a view to the ordinary business of life, What is America? What sort of people may be expected to succeed in it? The immortal Franklin has answered these questions, "America is the land of labor." But it is, emphatically, the best country on earth for those who will labor. By industry they can earn more wages here than elsewhere in the world. Our governments are more frugal; they demand few taxes so that the earnings of the poor man are left to enrich himself; they are nearly all his own, and not expended on kings or their satellites . . .
>
> People do not inquire concerning a stranger, What is he? but, What can he do? If he has any useful art, he is welcome; and if he exercises it and behaves well, he will be respected by all who know him. The husbandman is in honor here, and so is the mechanic because their employments are useful . . .
>
> You then who left the abject condition of European subjects, who will never encounter the persecution of kings, lords, or hierarchies, who are now beyond the fantastic tyranny of those governments that exterminate Catholics in one country, and connive at the massacre of Protestants in another, what more is requisite to engage your love and veneration of the free Constitution of America than to remember what you were, what you have witnessed, what you have suffered, and to reflect on what you are about to become, and the blessings you have it in your power to enjoy?[48]

Impelled by the privations of famine in Ireland and attracted by the opportunities advertised for America, over three quarters of a million Irish came to the United States between 1830 and 1850. Instead of a welcome and a chance to work many met hostility and discrimination. The following song expresses the frustration of the immigrant when he saw the signs, "No Irish Need Apply":

No Irish Need Apply

I'm a decent boy just landed from the town of
  Ballyfad;
I want a situation and I want it very bad.
I've seen employment advertised, "It's just the
  thing," says I,
But the dirty spalpeen ended with "No Irish
  Need Apply."
"Whoo," says I, "that is an insult, but to get
  the place I'll try,"

So I went there to see the blackguard with his
"No Irish Need Apply."
Chorus:

Some do think it is a misfortune to be
christened Pat or Dan,
But to me it is an honor to be born an
Irishman.

I started out to find the house, I got there mighty
soon;
I found the old chap seated — he was reading the
Tribune.
I told him what I came for, when he in a rage did
fly;
"No!" he says, "You are a Paddy, and no Irish
need apply."
Then I gets my dander rising, and I'd like to
black his eye
For to tell an Irish gentleman "No Irish Need
Apply."

I couldn't stand it longer so a-hold of him I took,
And I gave him such a welting as he'd get at
Donnybrook.
He hollered "Milia Murther," and to get away
did try,
And swore he'd never write again "No Irish
Need Apply."
Well, he made a big apology; I told him then
goodbye,
Saying, "When next you want a beating, write
"No Irish Need Apply."[49]

During the 1830's the number of immigrants entering the United States was 540,000, of whom 44 per cent were Irish, 30 per cent German, and 15 per cent English. Sometimes their arrival was less than welcome, as for instance in 1837 during the worst depression the country had ever yet known. The mayor of New York City wrote a letter to the Common Council of the city, insisting that "our city should not whenever it can be avoided receive more persons likely to become chargeable. It will be a herculean task to employ and take care of those who are already within our jurisdiction." His description of the plight of the city expressed some of the fears that moved established Americans to become "nativists":

> Our streets are filled with the wandering crowds of these passengers, clustering in our city, unacquainted with our climate, without money, without employment, without friends, many not speaking our language, and without any dependence for food or raiment or fireside - certain of nothing but hardship and a grave; and to be viewed, of course with no very ardent sympathy by those native citizens whose immediate ancestors were the saviors of the country in its greatest peril. Besides, many of them scorn to hold opinions in harmony with the true spirit of our government. They drive our native workmen into exile, where they must war again with the savage of the wilderness, encounter again the tomahawk and scalping knife, and meet death beyond the regions of civilization and of home. It is apprehended they will bring disease among us; and if they have it not with them on arrival, they may generate a plague by collecting in crowds within small tenements and foul hovels.[50]

The newly acquired territory on the West Coast also attracted immigrants whose initial welcome changed to resentment and discrimination. Chinese had been arriving in California since 1820, but after the discovery of gold they began immigrating in large numbers. Although soon exluded from taking mining claims they found employment enough to make labor contracting profitable. Following is a crude translation of an advertisement by a Chinese broker in the employ of foreign shipmasters:

> Americans are very rich people. They want the Chinaman to come and will make him welcome. There will be big pay, large houses, and food and clothing of the finest description. You can write your friends or send them money at any time, and we will be responsible for the safe delivery. It is a nice country, without mandarins or soldiers. All alike; big man no larger than little man . . . Never fear, and you will be lucky. Come to Hong Kong, or to the sign of this house in Canton and we will instruct you . . .[51]

By 1852, when it is estimated that there were more than 18,000 Chinese in California, the Chinese were experiencing many kinds of harassment. The Foreign Miners License Tax was finally directed primarily at them. It was held against them that they sent their earnings home to China, and that they could make a profit where others had given up. One old timer said, "When a Chinaman gets through going over the diggin's with a comb, there ain't enough gold left to fill a bedbug's tooth." One of the earliest laws against Chinese was passed by a mass meeting in Tuolumne County in 1852:

> Be it resolved: That it is the duty of the miners to take the matter into their own hands, and apply such remedies as the exigencies of the case seem to demand; to erect such barriers as shall be sufficient to check this Asiatic inundation that threatens to roll over the State, and turn back its waves on those who have set it in motion . . . That the capitalists, ship-owners and merchants and others who are encouraging or

> engaged in the imnportation of these burlesques on humanity would crowd their ships with the long-tailed, horned and cloven-hoofed inhabitants of the infernal regions, and contend for their introduction *into the mines on equality* with American laborers if they could add one farthing to the rate of freight, or dispose of one pound more of pork or a few shillings worth of rice by the operation.
>
> Resolved: That no Asiatic or South Sea Islander be permitted to mine in this district either for himself or for others, and that these resolutions shall be a part and parcel of our mining laws.[52]

In spite of all difficulties the Chinese persisted in making a place for themselves, with or without the friendship of the general community. In 1854 they started a weekly newspaper, which had, as part of its avowed purpose, to enable the Chinese to adjust themselves to the customs and ideals of their new country. The first editorial included the following sentiments:

> To the Chinese we say– Reflect, you have left your country to better your condition — you have found its social conditions injurious to your real comfort here. Is it wise to perpetuate that system from which you have suffered? You came to make a more comfortable subsistence here than at home. Would it not, therefore, be more prudent for each Chinaman to mix with and learn the habits and customs of the new country? Most assuredly, it is to your interest to get rid of all habits and general ignorance as soon as possible.
>
> To effect all of this, it is the object of this paper . . . To all the Chinese it will be the Herald of Hope — its means will be instruction — its end peaceful transition from isolation to cooperation with republicanism — its watchword and countersign are — Fraternity of Humanity.[53]

The good inentions of the editors were, unfortunately, not matched by the degree of understanding and feeling of security in the general community.

ISSUE 6. WHAT SHOULD THE NATION DO ABOUT THE INSTITUTION OF SLAVERY AND THE HUMAN RIGHT OF AFRO-AMERICANS?

"If you put a chain around the neck of a slave, the other end fastens itself around your own."
-Ralph Waldo Emerson

a. A time of hope cut short. During the Revolutionary War a group of Massachusetts blacks had been quick to see how the "self-evident" truths of the Declaration of Independence applied to their situation, and sent the following petition to the legislature:

> The petition of a great number of blacks detained in a state of slavery in the bowels of a free and Christian country humbly shows that your petitioners apprehend that they have in common with all other men a natural and unalienable right to that freedom which the Great Parent of the universe has bestowed equally on all mankind and which they have never forfeited by any compact or agreement whatever. But they were unjustly dragged by the hand of cruel power from their dearest friends and some of them even torn from the embraces of their tender parents, from a populous, pleasant, and plentiful country and violation of laws of nature and of nations and in defiance of all the tender feelings of humanity, brought here either to be sold like beasts of burden and, like them, condemned to slavery for life — among a people professing the mild religion of Jesus; . . . They cannot but express their astonishment that it has never been considered that every principle from which America has acted in the course of their unhappy difficulties with Great Britain pleads stronger than a thousand arguments in favor of your petitioners.
>
> They therefore humbly beseech Your Honors to give this petition its due weight and consideration, and cause an act of legislation to be passed whereby they may be restored to the enjoyments of that which is the natural right of all men, and that their children, who were born in this land of liberty, may not be held as slaves after they arrive at the age of twenty-one years. So may the inhabitants of this state, no longer chargeable with the inconsistency of acting themselves the part which they condemn and oppose in others, be prospered in their present glorious struggle for liberty and have those blessings for themselves.[54]

There had been several events to encourage the hopes of those who were working for emancipation. In the North, one state after another had passed laws providing for the abolition of slavery. Manumission was made easier by new laws in Virginia and North Carolina. An estimated 100,000 former slaves had been freed by different means, as the result of the Revolutions. Thomas Jefferson responded to Benjamin Banneker's letter protesting for equality of the races by conceding that "nature has given to our black brethren talents equal to the other colors of men, and that the appearance of a want of them is owing merely to the degraded condition of their existence."[55] But when the Constitutional Convention met a conservative reaction had set in, and property in human beings became constitutionally legal.

In the early years of the nineteenth century there was strong sentiment in some of the organized churches to do away with slavery. Following is part of a statement from a report of the Presbyterian General Assembly in 1818:

> The General Assembly of the Presbyterian Church, having taken into consideration the subject of slavery, think proper to make known their sentiments upon it to the churches and people under their care.
>
> We consider the voluntary enslaving of one part of the human race by another as a gross violation of the most precious and sacred rights of human nature; as utterly inconsistent with the law of God which requires us to love our neighbor as ourselves; and as totally irreconcilable with the spirit and principles of the Gospel of Christ, which enjoins that 'all things whatsoever ye would that men should do to you, do ye even so to them.' Slavery creates a paradox in the moral system. It exhibits rational, accountable, and immortal beings in such circumstances as scarcely to leave them the power of moral action. It exhibits them as dependent on the will of others whether they shall receive religious instruction, whether they shall know and worship the true God, whether they shall enjoy the ordinances of the gospel, whether they shall perform the duties and cherish the endearments of husbands and wives, parents and children, neighbors and friends, whether they shall preserve their chastity and purity, or regard the dictates of justice and humanity. Such are some of the consequences of slavery, consequences not imaginary but which connect themselves with its very existence . . .[56]

It is significant that the preceeding report was passed unanimously by an assembly that included many Southerners. On the opposite side of the issue was Richard Furman, representing the views of South Carolina Baptists in a letter to their governor, from which the following paragraphs are taken:

> On the lawfulness of holding slaves, considering it in a moral and religious view, the convention think it their duty to exhibit their sentiments on the present occasion before Your Excellency, because they consider their duty to God, the peace of the state, the satisfaction of scrupulous consciences, and the welfare of the slaves themselves as intimately connected with a right view of the subject . . .
>
> Had the holding of slaves been a moral evil, it cannot be supposed that the inspired apostles, who feared not the faces of men and were ready to lay down their lives in the cause of their God, would have tolerated it for a moment in the Christian Church. If they had done so on a principle of accomodation, in cases where the masters remained heathen, to avoid offenses and civil commotion, yet, surely, where both master and servent were Christian, as in the case before us, they would have enforced the law of Christ and required that the master should liberate his slave in the first instance. But, instead of this, they let the relationship remain untouched as being lawful and right, and insist on the relative duties.
>
> In proving this subject justifiable by scriptural authority, its morality is also proved; for the Divine Law never sanctions immoral actions. . .[57]

b. African colonization schemes. There were both blacks and whites who advocated starting a colony in Africa, to which free blacks might go and establish a country of their own. Motives were varied.

Paul Cuffe, a free black ship-owner, wished to go to Africa for the purpose of benefitting Africans. In 1809 he wrote as follows to two fellow Quakers in Philadelphia:

> I have for some years had it on my mind to make a voyage to Sierra Leone, feeling a real desire that the inhabitants of Africa might become an enlightened people, in the true light of Christianity. As I am of the African race I feel myself interested for them. If I am favored with a talent, I am willing that they should be benefited thereby.
>
> The Sierra Leone Company wrote that if Paul Cuffe should make a voyage there he should have every privilege that its government could afford. If you think it expedient [would you] write to England that I have some concern in navigation which if I concluded to settle [in Africa] I would wish to take with me so that the inhabitants might be benefited both with agriculture and commerce. And in case I engage in whale fishery [would you ask] whether I could have some encouragement such as a bounty, or to carry the products of the country duty-free to England?
>
> If times should be settled between this & next fall for such a voyage, it looks pretty clear to be put into execution. I think there are several families of good credit that may like to go.[58]

Others saw colonization as the best opportunity available to blacks for freedom and human dignity. In the first annual report of the American Society for the Colonizing of Free People of Color they spoke bluntly:

> Be their industry ever so great, and their conduct ever so correct, we never could consent, and they never could hope, to see the two races

> placed on a footing of perfect equality with each other. There is no State in the Union where a Negro can ever hope to be member of Congress, a judge, a militia officer, or even a justice of the peace, to sit down at the same table with respectable whites, or to mix freely in their society. I may safely assert that Paul Cuffe, respectable, intelligent and wealthy as he is, has no expecation of ever being invited to dine with any gentleman in Boston; of marrying his daughter, whatever may be her fortune or education, to one of their sons; or of seeing his son obtain a wife among their daughters.[59]

Many whites favored the colonization plan and contributed money to it, because although they were opposed to slavery, yet they did not think it expedient for free blacks to be associated with whites on a basis of equality. Some saw deportation as a necessary concomitant of emancipation, as expressed in the following paragraphs from the proceedings of the American Colonization Society in 1816, chaired by Henry Clay:

> He understood the object of the present meeting to be to consider the propriety and practicability of colonizing the free people of color in the United States, and of forming an association in relation to that object. That class of the mixed population of our country was peculiarly situated. They neither enjoyed the immunities of freemen nor were they subject to the incapacities of slaves, but partook in some degree of the qualities of both. From their condition, and the unconquerable prejudices resulting from their color, they never could amalgamate with the free whites of this country. It was desirable, therefore, both as it respected them and the residue of the population of the country to draw them off.
>
> Various schemes of colonization had been thought of, and a part of our own continent, it was thought by some, might furnish a suitable establishment for them, but for his part he had a decided preference for some part of the coast of Africa. There, ample provision might be made for the colony itself, and it might be rendered instrumental to the introduction into that extensive quarter of the globe of the arts, civilization, and Christianity. There was a peculiar, a moral fitness, in restoring them to the land of their fathers. And if, instead of the evils and sufferings which we have been the innocent cause of inflicting upon the inhabitants of Africa, we can transmit to her the blessings of our arts, our civilization, and our religion, may we not hope that America will extinguish a great portion of that moral debt which she has contracted to that unfortunate continent?
>
> . . . can there be a nobler cause than that which, while it proposes to rid our own country of a useless and pernicious if not dangerous portion of its population, contemplates the spreading of the arts of civilized life, and the possible redemption from ignorance and barbarism of a benighted portion of the globe?[60]

Henry Clay did not explain how a portion of American population whom he characterized as "useless, pernicious and dangerous" was nevertheless going to be able to redeem the African continent from "ignorance and barbarism."

The majority of blacks were not interested in establishing an African colony. Many could claim residence in America going back to three and four generations. Many had fought in the Revolution. James Forten found opposition to his initial efforts:

James Forten to Paul Cuffe:

> Esteemed friend. . .
>
> The African Institution met at the Rev. R. Allens the very night your letter came to hand. I red that part to them that wished them a happy New Year, for which they desired me to return you many thanks. I must now mention to you that the whole continent seems to be agitated concerning Colonising the People of Colour. . . Indeed the People of Colour, here was very much fritened at first. They were afrade that all the free people would be Compelled to go, particularly in the southern States. We had a large meeting of Males at the Rev. R. Allens Church the other evening Three thousand at least attended, and there was not one sole that was in favour of going to Africa. They think that the slave holders want to get rid of them so as to make their property more secure. However it appears to me that if the Father of all mercies, is in this interesting subject. . . the way will be made strate and clear. We however have agreed to remain silent, as the people here both white & colour are decided against the measure. My opinion that they will never become a people until they com out from amongst the white people, but as the majority is decidedly against me and I am determined to remain silent, except as to my opinion which I freely give when asked. . .
>
> I remain very affectionately
> Yours unalterably,
> James Forten[61]

On another occasion Forten had occasion to correspond with William Lloyd Garrison on the same subject:

James Forten to William Lloyd Garrison

My Esteemed Friend:

> . . .I well remember that when the New England Regiment marched through this city on their way to attack the English Army under Lord Cornwallis, there were several companies of colored people, as brave men as ever fought. I saw those brave soldiers who fought at the Battle of Red Bank where the Hessians [were] defeated. Now the descendants of these men are to be removed to a distant country while emigrants from every other country are permitted to seek an asylum here, and to enjoy the blessings of civil and religious liberty. [62]

c. The Suppression of the African Slave Trade. In accordance with Article I Section 9 of the United States Constitution, the U.S. Congress passed a bill prohibiting the importation of slaves, effective January 1, 1808:

> Be it enacted, That from and after the first day of January, one thousand eight hundred and eight, it shall not be lawful to import or bring into the United States or the territories thereof from any foreign kingdom, place, or country, any negro, mulatto, or person of colour, as a slave, or to be held to service or labour.
>
> Sec. 2. That no citizen of the United States, or any other person, shall, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, for himself, or themselves, or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load or to otherwise prepare any ship or vessel, in any port or place within the jurisdiction of the United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of procuring any negro, mulatto, or person of colour, from any foregin kingdom, place, or country, to be transported to any port or place whatsoever within the jurisdiction of the United States, to be held, sold, or disposed of as slaves, or to be held to service or labour: and if any ship or vessel shall be so fitted out for the purpose aforesaid, or shall be caused to sail so as aforesaid, every such ship or vessel, her tackle, apparel, and furniture, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts of district courts, for the district where the said ship or vessel may be found or seized. . .[63]

Although the bill prohibiting importation of slaves passed through Congress, it was not enforced effectively and it did not prohibit domestic slave traffic between the states. Various supplementary acts were passed which were likewise ineffective in preventing importation of slaves. In 1820 the slave trade was included in laws relating to piracy, and direct participation was made punishable by death, but in spite of the fact that thousands of slaves were illegally imported every year, it was not until Lincoln's administration that any slave trader was executed.

In 1817 the governor of Sierra Leone wrote:

> The slave trade is carried on most vigorously by the Spaniards, Portuguese, Americans and French. I have had it affirmed from several quarters, and do believe it to be a fact, that there is a greater number of vessels employed in that traffic than at any former period.[64]

There were international efforts to halt the traffic in human beings, led by Great Britain. Spain, Portugal, and Holland granted a mutual, limited "Right of Search" to England, but the United States would not allow its vessels to be searched nor their owners to be penalized in foreign courts. Thus, slave traders could merely change their ship's papers and flags, and sail unmolested past watching but helpless cruisers. Before 1830 most of the traffic was carried under the flags of France, Spain, and Portugal; after 1830 it gradually changed to ships flying the stars and stripes, and by 1860 nearly all the slave traffic found this flag its best protection.[65] There was much sentiment and attempt at action in the United States to stop the trade in human beings, but one British minister was moved to observe that "the Executive at Washington appears to shrink from bringing forward, in any shape, a question, upon which depends the completion of their former object -- the utter and universal Abolition of the Slave Trade -- from an Apprehension of alarming the Southern States.[66]

One of the earliest acts of President Lincoln was to reorganize the government's effort at enforcing the laws with respect to the slave traffic. By treaty with Great Britain, joint action at sea was agreed upon, and illegal activity began to be punished.

d. The Nature and conditions of slavery. In America, slavery was especially dehumanizing because under the system that developed a slave was primarily a piece of property, and only secondarily a human being. This status as property was confirmed in the Constitution. Ironically, it was the fact that slaves *were* human that required strict laws and cruel punishments to be passed to keep them in subjection. In Latin America, slaves generally had more legal rights, greater chances for obtaining freedom, and more participation in civil life after becoming free, than slaves in the United States. Obviously, cruelty existed in other places, too, but the system in the United States became the most dehumanizing, especially in regard to family relationships. In speaking of the slave system, one recognizes that the application of the system varied widely.

There were those that believed that the system was benign, and that the slave did not have the capability of appreciating freedom. One of these was Thomas Dew, a professor of political economy at the College of William and Mary, who published a book in favor of slave economy at a time when there was considerable doubt being expressed in the Virginia legislature about the wisdom of the slave system. The following paragraphs are taken from his writings:

> . . . and we have no doubt but that they form the happiest portion of our society. A merrier being does not exist on the face of the globe than the Negro slave of the United States. Even Captain Hall himself, with his thick "crust of prejudice," is obliged to allow that they are happy and contented, and the master much less cruel than is generally imagined. Why, then, since the slave is happy, and happiness is the great object of animated creation, should we endeavor to disturb his contentment by infusing into his mind a vain and indefinite desire for liberty — a something which he cannot comprehend, and which must inevitably dry up the very sources of his happiness.
>
> . . . We might rather die than be the obscure slave that waits at our back — our education and our habits generate an ambition that makes us aspire at something loftier, and disposes us to look upon the slave as unsusceptible of happiness in his humble sphere, when he may indeed be much happier than we are, and have his ambition too; but his ambition is to excel all his other slaves in the performance of his servile duties, to please and to gratify his master, and to command the praise of all who witness his exertions. . . Let the wiley philanthropist but come and whisper into the ears of such a slave that his situation is degrading and his lot a miserable one. . . and that moment, like the serpent that entered the Garden of Eden, he destroys his happiness and his usefulness. . .[67]

Frederick Douglass, before his famous escape from bondage, was forced to ask himself the question, "Why am I a slave?" He recorded his reasonings on that subject in his autobiography, *Narrative of the Life of Frederick Douglass:*

> Why am I a Slave? Why are some people slaves, and others masters? Was there ever a time when this was not so? How did the relation commence?
>
> These were the perplexing questions which began now to claim my thoughts, and to exercise the weak powers of my mind, for I was still but a child, and knew less than children of the same age in the free states. As my questions concerning these things were only put to children a little older, and little better informed than myself, I was not rapid in reaching a solid footing. By some means I learned from these inquiries that "God, up in the sky," made everybody; and that he made white people to be masters and mistresses, and black people to be slaves.
>
> This did not satisfy me, nor lessen my interest in the subject. I was told, too, that God was good, and that He knew what was best for me, and best for everybody. This was less satisfactory than the first statement; because it came, point blank, against all my notions of goodness. It was not good to let old master cut the flesh off Esther, and make her cry so. Besides, how did people know that God made black people to be slaves? Did they go up in the sky and learn it? or, did He come down and tell them so. All was dark here.
>
> It was some relief to may hard notions of the goodness of God, that, although he made white men to be slaveholders, he did not make them to be bad slaveholders, and that, in due time, he would punish the bad slaveholders; that he would, when they died, send them to the bad place, where they would be "burnt up". Nevertheless, I could not reconcile the relation of slavery with my crude notions of goodness.
>
> Then, too, I found that there were puzzling exceptions to this theory of slavery on both sides, and in the middle. I knew of blacks who were not slaves; I knew of whites who were not slaves; I knew of whites who were not slaveholders; and I knew of persons who were nearly white, who were slaves. Color, therefore, was a very unsatisfactory basis for slavery.
>
> Once, however, engaged in the inquiry, I was not very long in finding out the true solution of the matter. It was not color, but crime, not God, but man, that afforded the true explanation of the existence of slavery; nor was I long in finding out another important truth, viz: what man can make, man can unmake.[68]

Samuel Northup was a free black who was kidnapped while in Washington D.C. and sold into slavery. After twelve years on a Louisiana plantation he regained his freedom and in 1853 published an account of his experiences, from which the excerpt below is taken:

> An ordinary day's work is two hundred pounds. A slave who is accustomed to picking is punished if he or she brings in a less quantity than that. There is a great difference among them as regards this kind of labor. Some of them seem to have a natural knack, or quickness, which enables them to pick with great celerity, and with both hands, while others, with whatever practice or industry, are utterly unable to come up to the ordinary standard. Such hands are taken from the cotton fields and employed in other business. . .
>
> The hands are required to be in the cotton field as soon as it is light in the morning, and, with the exception of ten or fifteen minutes, which is given them at noon to swallow their allowance of cold bacon, they are not permitted to be a moment idle until it is too dark to see and when the moon is full they often times labor till the middle of the night. They do not dare to stop even at dinner return to the quarters, however late it be, until the order to halt is given by the driver.
>
> The day's work over in the field, the baskets are "toted," or in other words, carried to the gin-house, where the cotton is weighed. No matter how fatigued and weary he may be — no matter how much he longs for sleep and rest — a slave never approaches the gin-house with his basket of cotton but with fear. If it falls short in weight — if he has not performed the full task appointed him, he knows that he must suffer. And if he has exceeded it by ten or twenty pounds, in all probability his master will measure the next day's task accordingly.
>
> So, whether he has too little or too much, his approach to the gin-house is always with fear and trembling. Most frequently they have too little, and therefore it is they are not anxious to leave the field. After weighing, follow the whippings; and then the baskets are carried to the cotton house, and their contents stored away like hay, all hands being sent in to tramp it down. If the cotton is not dry, instead of taking it to the gin-house at once, it is laid upon platforms, two feet high, and some three times as wide, covered with board or plank, with narrow walks running between them.
>
> This done, the labor of the day is not yet ended, by any means. Each one must then attend to his respective chores. One feeds the mules, another the swine — another cuts the wood, and so forth; besides, the packing is all done by candle light. Finally, at a late hour, they reach the quarters, sleepy and overcome with the long day's toil. Then a fire must be kindled in the cabin, the corn ground in a small hand-mill, and supper, and dinner for the next day in the field, prepared. All that is allowed them is corn and bacon, which is given out at the corncrib and smoke-house every Sunday morning. Each one receives, as his weekly allowance, three and a half pounds of bacon, and corn enough to make a peck of meal. That is all — no tea, coffee, sugar, and with the exception of a very scanty sprinkling now and then, no salt. . .[69]

When some human beings were regarded as property by the United States Constitution, a dehumanizing effect was inevitable, both on master and on slave. The most dehumanizing result was seen in the destruction of normal family life, which though not universal, was nevertheless almost always a potential threat. One former slave gave the following account:

> The same man also purchased Randall. The little fellow was made to jump, and run across the floor, and perform many other feats, exhibiting his activity and condition. All the time the trade was going on, Eliza was crying aloud, and wringing her hands. She besought the man not to buy him, unless he also bought herself and Emily. She promised, in that case to be the most faithful slave that ever lived. The man answered that he could not afford it, and Eliza burst into a paroxysm of grief, weeping plaintively. Freeman turned round to her, savagely, with his whip in his uplifted hand, ordering her to stop her noise, or he would flog her. He would not have such work — such snivelling; and unless she ceased that minute, he would take her to the yard and give her a hundred lashes. Yes, he would take the nonsense out of her pretty quick — if he didn't might he be d----d. Eliza shrunk before him, and tried to wipe away her tears, but it was all in vain. She wanted to be with her children, she said, the little time she had to live.
>
> All the frowns and threats of Freeman could not wholly silence the afflicted mother. She kept on begging and beseeching them, most piteously, not to separate the three. Over and over again she told them how she loved her boy. A great many times she repeated her former promises — how very faithful and obedient she would be; how hard she would labor day and night, to the last moment of her life; if he would only buy them all together. But it was of no avail; the man could not afford it. The bargain was agreed upon, and Randall must go alone. Then Eliza ran to him, embraced him passionately; kissed him again and again; told him to remember her — all

the while her tears falling in the boy's face like rain.

Freeman damned her, calling her a blubbering, bawling wench, and ordered her to go to her place, and behave herself, and be somebody. He swore he wouldn't stand such stuff but a little longer. He would soon give her something to cry about, if she was not mighty careful, and that she might depend upon.

The planter from Baton Rouge, with his new purchase, was ready to depart.

"Don't cry, mama. I will be a good boy. Don't cry," Randall said, looking back, as they passed out the door.

What has become of the lad, God knows. It was a mournful scene indeed. I would have cried myself if I had dared.[70]

A Federal Writers' Project in the 1930's was devoted to preserving the recollections of former slaves and children of slaves. The accounts included the following anecdotes:

But I Can Kill You

My papa was strong. He never had a licking in his life. He helped the master, but one day the master says, "Si, you got to have a whopping," and my poppa says, "I never had a whopping and you can't whop me." And the master says, "But I can kill you," and he shot my papa down. My mama took him in the cabin and put him on a pallet. He died.[71]

She Never Got To Keep Her Babies

My mother told me that he owned a woman who was the mother of several children and when her babies would get about a year or two of age, he sell them, and it would break her heart. She never got to keep them. When her fourth baby was born and was about two months old, she just studied all the time about how she would have to give it up, and one day she said, "I just decided I'm not going to let Old Master sell this baby; he just ain't going to do it." She got up and give it something out of a bottle, and pretty soon it was dead. Course didn't nobody tell on her, or he'd beat her nearly to death.

. . . They were putting them up on a block and selling them just like cattle. She had a little nursing baby at home, and she broke away from her mistress and them and said, "I can't go off and leave my baby." And they had to git some men and throw her down and hold her to keep her from going back to the house. They sold her away from her baby boy. They didn't let her go back to see him again.[71]

Eliza and the Man from New York

I saw slaves sold. I can see that old block now. My cousin Eliza was a pretty girl, really good-looking. Her master was her father. When the girls in the big house had beaus coming to see 'em, they'd ask, "Who is that pretty gal?" So they decided to get rid of her right away. The day they sold her will always be remembered. They stripped her to be bid off and looked at. I wasn't allowed to stand in the crowd. I was laying down under a big bush. The man that bought Eliza was from New York. The Negroes had made up 'nough money to buy her off theyself, but they wouldn't let that happen. There was a man bidding for her who was a Swedelander. He always bid for the good-looking colored gals and bought 'em for his own use. He ask the man from New York, "What you gonna do with her when you git her?" The man from New York said, "None of your damn business, but you ain't got money 'nough to buy her." When the man from New York had done bought her, he said, "Eliza, you are free from now on." She left and went to New York with him. Mama and Eliza both cried when she was being showed off, and Master told 'em to shut up before he knocked their brains out.[71]

e. Protest, rebellion, and the underground railroad. Charles Lenox Remond wrote, "Let every colored man called upon to pay taxes to an institution in which he is denied privileges, withhold his taxes, though it costs imprisonment."

The Freedom's Journal, published by John Russwurm and Samuel Cornish, was the first newspaper edited and published by blacks in the United States. In his first issue, the editor (who was a graduate of Bowdoin College) stated the purpose of his publication:

> We wish to plead our own cause. Too long have others spoken for us. Too long has the publick been deceived by misrepresentations, in things which concern us dearly. . . The civil rights of a people being of the greatest value, it shall ever be our duty to vindicate our brethren, when oppressed; to lay the case before the publick. We shall also urge upon our brethren. . . the expediency of using their elective franchise; and of making an independent use of the same. . . Useful knowledge of every kind, and everything that relates to Africa, shall find a ready admission into our columns; and as that vast continent becomes daily more known, we trust that many things will come to light, proving that the natives of it are neither so ignorant nor stupid as they have generally been supposed to be. . .

> We would not be unmindful of our brethren who are still in the iron fetters of bondage. They are our kindred by all the ties of nature. . .
>
> We wish to conciliate all and to irritate none, yet we must be firm and unwavering in our principles, and persevering in our efforts.
>
> The interesting fact that there are five hundred thousand free persons of colour, one half of whom might peruse, and the whole be benefitted by the publication of the Journal; that no publication, as yet, has been devoted exclusively to their improvement — and more important still, that this large body of our citizens have no public channel — all serve to prove the real necessity at present, for the appearance of the *Freedom's Journal.*[71]

David Walker's *Appeal* made no attempt to be concilatory. Born of a free mother and a slave father, David Walker's hatred of slavery drove him to living by selling old clothes and subscriptions to *Freedom's Journal* while he prepared his pamphlet. After its publication a price was put on his head, dead or alive, in Georgia, and it became a crime to circulate the *Appeal* or to teach slaves to read. Walker had advocated taking up arms to free the slaves. Part of the *Appeal* was addressed to all Americans:

> Remember Americans, that we must and shall be free and enlightened as you are, will you wait until we shall, under God, obtain our liberty by the crushing arm of power? Will it not be dreadful for you? I speak Americans for your good. We must and shall be free I say, in spite of you. You may do your best to keep us in wretchedness and misery, to enrich you and your children, but God will deliver us from under you. And wo, wo, will be to you if we have to obtain our freedom by fighting. Throw away your fears and prejudices then, and enlighten us and treat us like men, and we will like you more than we do now hate you, and tell us no more about colonization, for America is as much our country, as it is yours.
>
> Treat us like men, and there is no danger but we will all live in peace and happiness together. For we are not like you, hard hearted, unmerciful, and unforgiving. What a happy country this will be, if the whites will listen. What nation under heaven will be able to do any thing with us, unless God gives us up into its hand?
>
> But Americans, I declare to you, while you keep us and our children in bondage, and treat us like brutes, to make us support you and your families, we cannot be your friends. You do not look for it, do you? Treat us then like men, and we will be your friends. And there is not a doubt in my mind, but that the whole of the past will be sunk into oblivion, and we yet, under God, will become a united and happy people. The whites may say it is impossible, but remember that nothing is impossible with God.[73]

Slave rebellions occurred more frequently after Walker's *Appeal*. In 1831, the mystic slave preacher, Nat Turner, organized a revolt that struck the Virginia countryside with horror and fear. In his confessions while awaiting execution he described his mission and its bloody fulfillment:

> I was thirty-one years of age the second of October last, and born the property of Benjamin Turner, of this county. ...
>
> On the 12th of May, 1828, I heard a loud noise in the heavens, and the Spirit instantly appeared to me and said the Serpent was loosened, and Christ had laid down the yoke he had borne for the sins of men, and that I should take it on and fight against the Serpent, for the time was fast approaching when the first should be the last and the last should be the first.
>
> Question: "Do you not find yourself mistaken now?"
> Answer: "Was not Christ crucified?"
>
> And by signs in the heavens that it would make known to me when I should commence the great work, and until the first sign appeared I should conceal it from the knowledge of men; and on the appearance of the sign (the eclipse of the sun, last February), I should arise and prepare myself, and slay my enemies with their own weapons.
>
> And immediately on the sign appearing in the heavens, the seal was removed from my lips, and I communicated the great work laid out for me to do to four in whom I had the greatest confidence (Henry, Hark, Nelson and Sam).
>
> Since the commencement of 1830 I had been living with Mr. Joseph Travis, who was to me a kind master, and placed the greatest confidence in me; in fact, I had no cause to complain of his treatment to me. On Saturday evening, the 20th of August, it was agreed between Henry, Hark, and myself to prepare a dinner the next day for the men we expected, and then to concert a plan, as we had not yet determined on any. . .
>
> It was quickly agreed we should commence at home (Mr. J. Travis') on that night; and until we had armed and equipped ourselves, and gathered sufficient force, neither age nor sex was to be spared — which was invariably adhered to. We remained at the feast until about two hours in the night, when we went to the house and found Austin. . .

> I took my station in the rear, and, as it was my object to carry terror and devastation wherever we went, I placed fifteen or twenty of the best armed and most to be relied on in front, who generally approached the houses as fast as their horses could run. This was for two purposes — to prevent their escape, and strike terror to the inhabitants; on this account I never got to the houses, after leaving Mrs. Whitehead's, until the murders were committed, except in one case. I sometimes got in sight in time to see the work of death completed; viewed the mangled bodies as they lay, in silent satisfaction, and immediately started in quest of other victims.[74]

A demand for immediate abolition of slavery was sounded by William Lloyd Garrison, in 1831, in the first issue of *The Liberator* a weekly publication that was destined to be equally admired and hated until it ceased publication with the passage of the Thirteenth Amendment. Portions of the first editorial follow:

> During my recent tour for the purpose of exciting the minds of the people by a series of discourses on the subject of slavery, every place that I visited gave fresh evidence of the fact that a greater revolution in public sentiment was to be effected in the free states — and particularly in New England — than at the South. I found contempt more bitter, opposition more active, detraction more relentless, prejudice more stubborn, and apathy more frozen than among slaveowners themselves. Of course, there were individual exceptions to the contrary. This state of things afflicted but did not dishearten me. I determined, at every hazard, to lift up the standard of emancipation in the eyes of the nation, within sight of Bunker Hill and in the birthplace of liberty.
>
> . . . Let Southern oppressors tremble; let their secret abettors tremble; let their Northern apologists tremble; let all the enemies of the persecuted blacks tremble.
>
> . . . I am aware that many object to the severity of my language; but is there not cause for severity? I will be as harsh as truth and as uncompromising as justice. On this subject, I do not wish to think, or speak, or write with moderation. No! No! Tell a man whose house is on fire to give a moderate alarm; tell him to moderately rescue his wife from the hands of the ravisher; tell the mother to gradually extricate her babe from the fire into which it has fallen — but urge me not to use moderation in a cause like the present. I am in earnest; I will not equivocate; I will not excuse; I will not retreat a single inch — *and I will be heard.* The apathy of the people is enough to make every statue leap from its pedestal and to hasten the resurrection of the dead.[75]

The Declaration of the American Anti-Slavery Society announced a determination to abolish slavery in which black and white, men and women alike, joined in a militant crusade. Often divided as to tactics, they nevertheless had one goal: abolition of slavery. Following is a major portion of their declaration:

> The convention, assembled in the city of Philadelphia to organize a National Anti-slavery Society, promptly seize the opportunity to promulgate the following Declaration of Sentiments, as cherished by them in relation to the enslavement of one-sixth portion of the American people.
>
> . . . we maintain that in view of the civil and religious privileges of this nation, the guilt of the earth; and, therefore, that is bound to repent instantly, to undo the heavy burden, to break every yoke, and to let the oppressed go free . . .
>
> The right to enjoy liberty is inalienable. To invade it is to usurp the prerogative of Jehovah. Every man has a right to his own body, to the products of his own labor, to the protection of law, and to the common advantages of society. It is piracy to buy or steal a native African and subject him to servitude. Surely the sin is as great to enslave an American as an African.
>
> Therefore, we believe and affirm:
>
> That there is no difference, in principle, between the African slave trade and American slavery.
>
> That every American citizen who retains a human being in involuntary bondage as his property is (according to Scripture) *a man stealer.*
>
> That the slaves ought instantly to be set free and brought under the protection of law.
>
> . . . That all those laws which are now in force, admitting the right of slavery, are, therefore, before God, utterly null and void, being an audacious usurpation of the Divine prerogative; a daring infringement on the law of nature . . .
>
> We further believe and affirm that all persons of color who possess the qualifications which are demanded of others ought to be admitted forthwith to the enjoyment of the same privileges, and the exercise of the same prerogatives, as others . . .
>
> We maintain that no compensation should be given to the planters emancipating their slaves . . .

> Because *slavery is a crime, and therefore is not an article to be sold* . . .
>
> We shall spare no exertions nor means to bring the whole nation to speedy repentance.
>
> Our trust for victory is solely in God. We may be personally defeated, but our principles never. *Truth, justice, reason, humanity* must and will gloriously triumph. Already a host is coming up to the help of the Lord against the mighty, and the prospect before us is full of encouragement."[6]

Many slaves had escaped to free areas — to the Indian territories, to Florida, to Canada, without organized assistance, but as opposition to slavery increased, so did organized assistance to fugitives by a system known as the "Underground Railroad." Staffed by both black and white operators, and inspired by the writings of Quakers, Garrison, and other abolitionists, churchmen women's rights leaders, the "railroad" removed hundreds of slaves, especially from the border states, to freedom, much to the indignation of slaveholders in the South. The following account may be taken as an example of the experiences of the fugitives:

> Kentucky was my home. I was not far from the Ohio River, and at Madison, Indiana, lived a man named Mason, a preacher. That was the beginning of the Underground Railroad for Canada. I traveled at night. In the day I would hide in the woods. I lived on raw potatoes, turnips and anything I could get. I had money but a runaway nigger was worth $50., them days, and they watched for them mighty close. My old master paid $1,200 for me, so I knowed he would follow me hard. I went to the stable of a preacher Mason in Madison, and he had his man start with me and two other niggers for a point thirty miles north. It took us two nights to make it. Then we was in an old cave for more than a week.
>
> A man comes one night when we was early starved and give us some apples and says the officers were watching for us. I was scared to death. Then t'other man comes and says, "It will take a lot of money to get you out of here Has you got any?" . . .I says, "$25."
>
> "Give me that $25." says that white man, "and I will get you away from here." I asked him how far, and he says "To Detroit." I knowed that was right across the river from Canada but the Kentuckians used to tell us that the river between Detroit and Canada was a thousand miles wide.
>
> So I give him $25. We walked two nights, sleeping all day in a hollow tree. Then we got to a big place and the man says, "This is Indianapolis. You got a long way to go yet." Then he brought another man to where I was staying in a cellar with lots of other runaway niggers and he loaded us all in a big covered wagon and we started agin. In the day he covered us with bedcloths, and I heard him telling folks he met he was moving. In about a week we comes to a big town and a big river, and the man told us to get out. It was night, and a man on a long boat with big paddles told us to get in quick, and he fetched us across and says, "This is Canada and you niggers is free." I just hollered."[7]

Thomas Garrett assisted hundreds of fugitives, and had the honor of assisting one of the most famous leaders of the Underground Railroad, Harriet Tubman. Following is a letter he wrote on the occasion of her last trip South:

> Respected Friend: — William Still: — I write to let thee know that Harriet Tubman is again in these parts. She arrived last evening from one of her trips of mercy to God's poor, bringing two men with her as far as New Castle. I agreed to pay a man last evening, to pilot them on their way to Chester county; the wife of one of the men, with two or three children, was left some thirty miles below, and I gave Harriet ten dollars, to hire a man with carriage, to take them to Chester county. She said a man had offered for that sum, to bring them on. I shall be very uneasy about them, till I hear they are safe. There is now much risk on the road, till they arrive here, than there has been for several months past, as we find that some poor, worthless wretches are constantly on the lookout on two roads, that they cannot well avoid more especially with carriage, yet, as it is Harriet who seems to have had a special angel to guard her on her journey of mercy, I have hope.
>
> Thy Friend
> Thomas Garrett"[8]

f. The Union is threatened. Attempts at compromise over the slavery issue produced a situation in which neither North or South was satisfied. One of the compromises included the Fugitive Slave Act, which reportedly made more abolitionists in the North than Garrison or any of the New England reformers ever did. It included the following provisions:

> That when a person held to service or labor in any State or Territory of the United States, has heretofore or shall hereafter, escape into another State or Territory of the United States, the person or persons to whom such service or labor may be due, . . . may pursue and reclaim such fugitive person, either by procuring a warrant from some one of the courts, judges or commissioners aforesaid, of the proper circuit, district, or

county, for the apprehension of such fugitive from service or labor, or by seizing and arresting such fugitive, where the same can be done without process, and by taking, or causing such person to be taken, forthwith before such court, judge, or commissioner,

. . . to use such reasonable force and restraint as may be necessary under the circumstances of the case, to take and remove such fugitive person back to the State or Territory whence he or she may have escaped as aforesaid. In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence;

. . .That any persons who shall knowingly and willingly obstruct, hinder, or prevent such claimant, his agent or attorney, or any person or persons lawfully assisting him, her,or them, from arresting such a fugitive from service or labor, either with or without process as aforesaid, or shall rescue, or attempt to rescue, such fugitive from service or labor, from the custody of such claimant,. . . or other person or persons lawfully assisting as aforesaid, when so arrested. . .or shall aid, abet, or assist such person so owing service or labor as aforesaid, directly or indirectly, to escape from such claimant, . . . or shall harbor or conceal such fugitive, so as to prevent the discovery and arrest of such person, after notice or knowledge of the fact that such person was a fugitive from service or labor. . . shall, for either of said offences, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months.[79]

How the Fugitive Slave law increased sectional feeling is illustrated by the following lines from a poem by one of the New England abolitionist poets and editors, John Greenleaf Whittier:

Massachusetts to Virginia

The voice of Massachusetts! Of her free
  sons and daughters,
Deep calling unto deep aloud, the sound of
  many waters!
Against the burden of that voice what tyrant
  power shall stand?
No fetters in the Bay State! No slave upon her
  land!

Look to it well, Virginians! In calmness
  we have borne,
In answer to our faith and trust, your insult
  and your scorn;
You've spurned our kindest counsels; you've
  hunted for our lives;
And shaken round our hearths and homes your
  manacles and gyves!

We wage no war, we lift no arm, we fling
  no torch within
The fire-damps of the quaking mine beneath
  your soil of sin;
We leave ye with your bondmen, to wrestle,
  while ye can,
With the strong upward tendencies and
  godlike soul of man!

But for us and for our children, the vow which
  we have given
For freedom and humanity, is registered
  in heaven;
No slave-hunt in our borders —
  no pirate on our strand!
No fetters in the Bay State — no slave upon
  our land![80]

For his part in passing the Compromise of 1850 which included the hated Fugitive Slave Law, the revered Senator Daniel Webster was mourned in the following lines whose title means "The glory is departed:

Ichabod

by John Greenleaf Whittier

So fallen! so lost! the light withdrawn
  Which once he wore!
The glory from his gray hairs gone
  Forevermore!. . .

All else is gone; from those great eyes
  The soul has fled:
When faith is lost, when honor dies,
  The man is dead!

The pay the reverence of old days
  To his dead fame;
Walk backward, with averted gaze,
  And hide the shame![81]

The Dred Scott Decision heightened the mounting controversy. Dred Scott was a Missouri slave whose master had taken him to a free state and then into a northern part of the Lousiana Territory, from which slavery had been excluded by the Missouri Compromise. He sued for his freedom on the grounds of residence on free soil. The Supreme Court decided that Dred Scott was not a citizen of the State of Missouri, that Congress had no power to exclude slavery from the territories, and furthermore, persons of slave descent were not included in the group of persons called citizens in the U.S. Constitution.

William Cullen Bryant commented on this decision: "Hereafter, if this decision shall stand for law, slavery, instead of being what the people of slave states have hitherto called it, their peculiar institution, is a Federal institution, the common patrimony and shame of all the states, those which flaunt the title of free, as well as those which accept the stigma of being the Land of Bondage. . . " Frederick Douglass foresaw that the decision would hasten the end of slavery: "We, the abolitionists and colored people, should meet this decision, unlooked for and monstrous as it appears, in a cheerful spirit. This very attempt to blot out forever the hopes of an enslaved people may be one necessary link in the chain of events prepraratory to the complete overthrow of the whole slave system."

Selections from the Dred Scott decision:

> The question before us is, whether the class of person described in the plea in abatement compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word "citizens" in the Constitution, and can, therefore, claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and whether emancipated or not, yet remained suibject to their authority, and had no rights or privileges but such as those who held the power and the government might choose to grant them. . .
>
> In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show, that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument. . .
>
> They had for more than a century before been regarded as beings of an inferior order; and altogether unfit to associate with the white race,either in social or political relations; and so far inferior that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. . .This opinion was at that time fixed and universal in the civilized portion of the white race . . .
>
> The legislation of the different Colonies furnishes positive and undisputable proof of this fact. . .
>
> The language of the Declaration of Independence is equally conclusive. . .
>
> This state of public opinion had undergone no change when the Constitution was adopted, as is equally evident from its provisions and language. . .
>
> Indeed, when we look to the condition of this race in the several states at the time, it is impossible to believe that these rights and privileges were intended to be extended [illegible] them. . .
>
> And upon a full and careful consideration of the subject, the court is of opinion that, upon the facts stated in the plea in abatement, Dred Scott was not a citizen of Missouri within the meaning of the Constitution of the United States, and not entitled as such to sue in its courts; and, consequently, that the Circuit Court had no jurisdiction of the case, and that the judgment on the plea in abatement is erroneous. . .[82]

Abraham Lincoln, although an anti-slavery man in sentiment, had been willing to let slavery alone where it was established. But after the Kansas-Nebraska Act and other steps toward extending slavery into the territories Lincoln began to express opposition more openly. At Peoria, Illinois, he stated, "Slavery is founded in the selfishness of man's nature — opposition to it, in his love of justice. These principles are an eternal antagonism; and when brought into collision so fiercely, as slavery extension brings them, shocks, and throes, and convulsions must ceaselessly follow." Four years later, as a rival candidate to Stephen Douglas for a seat in the United States Senate, he delivered his famous "House Divided" speech:

> Mr. President and Gentlemen of the Convention: If we could first know where we are, and whither we are tending, we could better judge what to do, and how to do it. We are now far into the fifth year since a policy was initiated with the avowed object and confident promise of putting an end to slavery agitation. Under the operation of that policy, that agitation has not only not ceased, but has constantly augmented. In my opinion, it will not cease until a crisis shall have been reached and passed. "A house divided against itself cannot stand." I believe this government cannot endure permanently half slave and half free. I do not expect the Union to be dissolved; I do not expect the house to fall; but I do expect it will cease to be divided. It will become all one thing, or all the other. Either the opponents of slavery will arrest the further spread of it, and place it where the public mind shall rest in the belief that it is in the course of ultimate extinction, or its advocates will push it forward till it shall become alike lawful in all the States, old as well as new, North as well as South.[83]

Whatever the verdict of later historians concerning

Lincoln and slavery, there was little doubt in the South about his hostility to their "peculiar institution". His election to the presidency precipitated declarations of secession from the Union, of which the following is an example:

South Carolina Declaration of Causes of Secession December 24, 1860

> We affirm that these ends for which this Government was instituted have been defeated, and the Government itself has been destructive of them by the action of the nonslaveholding States. Those States have assumed the right of deciding upon the propriety of our domestic institutions; and have denied the rights of property established in fifteen of the States and recognized by the Constitution; they have permitted the open establishment among them of societies, whose avowed object is to disturb the peace of and eloin the property of the citizens of other States. They have encouraged and assisted thousands of our slaves to leave their homes; and those who remain, have been incited by emissaries, books, and pictures, to servile insurrection. . .
>
> A geographical line has been drawn across the Union, and all the States north of that line have united in the election of a man to the high office of President of the United States whose opinions and purposes are hostile to Slavery. He is to be intrusted with the administration of the common Government, because he has declared that "Government cannot endure permanently half slave, half free," and that the public mind must rest in the belief that Slavery is in the course of ultimate extinction.
>
> This sectional combination for the subversion of the Constitution has been aided, in some of the States, by elevating to citizenship persons who, by the supreme law of the land, are incapable of becoming citizens; and their votes have been used to inaugurate a new policy, hostile to the South, and destructive of its peace and safety."

The Issue that had not been resolved in the halls of debate would now be settled on the fields of battle.

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Chapter IV

Reconstruction, Industrialism, Imperialism 1865-1912

INTRODUCTION

During the nineteenth century, America grew from a small rural society to a great industrial power. But the transition was not an easy one. The challenges to the country were great, not the least of which was the question of secession and the maintenance of the Union over which the Civil War was fought. That question settled by the defeat of the Confederacy, the American people again turned to construction and expansion — a thrust that had begun earlier in the century and continued through disunion and reconstruction. Railroads were built that bridged the continent. New inventions were created that meant not only growth of new industries, but a great boom to large businesses that soon grew into monopolies. Farmers and workers, discontented with their vulnerability in the marketplace and becoming aware of their power as collective bargaining forces, increasingly demanded fairer shares of the country's wealth. While some Americans were moving to the cities, others went about settling the "last frontier" in the West. Miners, farmers, blacks migrating from the south, cattle barons, and the cowboy moved to the Great Plains displacing the Indians from their tribal lands and confining them to the reservations.

Thus the issues that faced America between the period 1861 and 1912 were great, not only in magnitude, but in their long-range effect on the quality of American life. Over what issue was the Civil War fought? What was to be the policy toward the defeated States? What were to be the rights of labor? Should those rights be considered in terms of the individual worker or by the newly organized labor unions? Should the government intervene in the management of the economy and the regulation of big business? What was to be the status of blacks — of the Indian?

Only tentative solutions to these questions were arrived at, and most are still being debated.

ISSUES

1. Over what issues was the Civil Was fought?

2. What should be the policy toward the defeated Confederate states?

3. What was to be done with the 4,000,000 newly emancipated blacks?

4. How was the settlement of the frontier to be reconciled with the rights of the Indians?

5. Should the government intervene in the management of the economy and the regulation of business?

6. What should be the rights of labor?

SELECTIONS RELATED TO THE ISSUES

1. OVER WHAT ISSUES WAS THE CIVIL WAR FOUGHT?

The fighting at Fort Sumter in April, 1861, released a deluge of sectional tensions that had been mounting steadily over the previous ten years. Passion created an irrevocable course. In Lincoln's view, "insurrection" existed, and on April 15, 1861, he called on northern governors to meet the challenge. He requested the governors to supply 75,000 volunteers from the states to fight for a period of 90 days. In answer to Lincoln's declaration of war, Jefferson Davis prepared a statement to the Confederate Congress in which he gave a historic justification of states rights and slavery:

> Gentlemen of the Congress. . .
>
> The declaration of war made against this Confederacy by Abraham Lincoln, the President of the United States, in his proclamation issued on the 15th day of the present month, rendered it necessary, in my judgment, that you should convene at the earliest practicable moment to devise the measures necessary for the defense of the country. The occasion is indeed an extraordinary one. It justifies me in a brief review of the relations heretofore existing between us and the States which now unite in warfare against us and in a succinct statement of

the events which have resulted in this warfare, to the end that mankind may pass intelligent and impartial judgment on its motives and objects. . .

Strange, indeed, must it appear to the impartial observer, but is none the less true that all these carefully worded clauses proved unavailing to prevent the rise and growth in the Northern States of a political school which has persistently claimed that the government thus formed was not a compact *between* and *over* the states. An organization created by the States to secure the blessings of liberty and independence against *foreign* aggression, has been gradually perverted into a machine exalted above its *creators*. The *principals* have been made subordinate to the agent appointed by themselves. The people of the Southern States, whose almost exclusive occupation was to render the common government subservient to their own purposes by imposing burdens on commerce as a protection to their manufacturing and shipping interests. By degrees, as the Northern States gained preponderance in the National Congress, self-interest taught their people to yield ready assent to any plausible advocacy of their right as a majority to govern the minority without control. They learned to listen with impatience to the suggestion of any constitutional impediment to the exercise of their will, and so utterly have the principles of the Constitution been corrupted in the Northern mind that, in the inaugural address delivered by President Lincoln in March last, he asserts as an axiom, which he plainly deems to be undeniable, that the theory of the Constitution requires that in all cases the majority shall govern. . .

This is the lamentable and fundamental error on which rests the policy that has culminated in his declaration of war against these Confederate States. In addition to the long-continued and deep-seated resentment felt by the Southern States at the persistent abuse of the powers they had delegated to the Congress, for the purpose of enriching the manufacturing and shipping classes of the North at the expense of the South, there has existed for nearly half a century another subject of discord, involving interests, of such transcendent magnitude as at all times to create the apprehension in the minds of many devoted lovers of the Union that its permanence was impossible. When the several States delegated certain powers to the United States Congress, a large portion of the laboring population consisted of African slaves imported into the colonies by the mother country. In twelve out of the thirteen States negro slavery existed, and the right of property in slaves was protected by law. This property was recognized in the Constitution and provision was made against its loss by the escape of the slave. The increase in the number of slaves by further importation from Africa was also secured by a clause forbidding Congress to prohibit the slave trade anterior to a certain date, and in no clause can there be found any delegation of power to the Congress authorizing it in any manner to legislate to the prejudice, detriment, or discouragement of the owners of that species of property, or excluding it from the protection of the Government.

The climate and soil of the Northern States soon proved unpropitious to the continuance of slave labor, whilst the converse was the case in the South. Under the mild and genial climate of the Southern States and the increasing care and attention for the well-being and comfort of the laboring classes, dictated alike by interest and humanity, the African slaves had augmented in number from about 600,000 at the date of the adoption of the constitutional compact, to upward of 4,000,000. In moral and social condition they had been elevated from brutal savages into docile, intelligent, and civilized agricultural laborers, and supplied not only with bodily comforts but with careful religious instruction. Under the supervision of a superior race their labor had been so directed as not only to allow a gradual and marked amelioration of their own condition, but to convert hundreds of thousands of square miles of the wilderness into cultivated lands covered with a prosperous people; towns and cities had sprung into existence, and had rapidly increased in wealth and population under the social system of the South; the white population of the Southern slave-holding States had augmented from about 1,250,000 at the date of the adoption of the Constitution to more than 8,500,000, in 1860; and the productions in the South of cotton, rice, sugar, and tobacco, for the full development and continuance of which the labor of African slaves was and is indispensable, had swollen to an amount which formed nearly three-fourths of the exports of the whole United States and had became absolutely necessary to the wants of civilized man. With interests of such overwhelming magnitude imperiled, the people of the Southern States were driven by the conduct of the North to the adoption of some course of action to avert the danger with which they were openly menaced. With this view the Legislatures of the several States invited the people to select delegates to conventions to be held for the purpose of determining for themselves what measures were best adapted to meet so alarming a crisis in their history. Here it may be proper to

> observe that from a period as early as 1798 there had existed in all of the States of the Union a party almost uninterruptedly in the majority based upon the creed that each State was, in the last resort, the sole judge as well of its wrongs as of the mode and measure of redress. . .
>
> In the exercise of a right so ancient, so well-established, and so necessary for self-preservation, the people of the Confederate States, in their conventions, determined that the wrongs which they had suffered and the evils with which they were menaced required that they should revoke the delegation of powers to the Federal Government which they had ratified in their several conventions. They consequently passed ordinances resuming all their rights as sovereign and independent States and dissolved their connection with the other States of the Union.
>
> Having done this, they proceeded to form a new compact amongst themselves by new articles of confederation, which have been also ratified by the conventions of the several States with an approach to unanimity far exceeding that of the conventions which adopted the Constitution of 1787. They have organized their new Government in all its departments; the functions of the executive, legislative, and judicial magistrates are performed in accordance with the will of the people, as displayed not merely in a cheerful acquiescence, but in the enthusiastic support of the Government thus established by themselves; and but for the interference of the Government of the United States in this legitimate exercise of the right of a people to self-government, peace, happiness, and prosperity would now smile on our land. . .[1]

From the outset, Lincoln, however, viewed the war as essentially a defensive one, waged to preserve the great American experiment of constitutional federalism. There was never mention by Lincoln during the first years of the war that it was being fought to abolish slavery. Rather, preservation of the Union was the point of contention. This he elucidates in a message to a special session of Congress on July 4, 1861:

> At the beginning of the presidential term, four months ago, the functions of the Federal Government were found to be generally suspended within the several States of South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Florida, excepting only those of the Post-office Department. . .
>
> The purpose to sever the Federal Union was openly avowed. In accordance with this purpose, an ordinance had been adopted in each of these States, declaring the States respectively to be separated from the National Union. A formula for instituting a combined government of these States had been promulgated; and this illegal organization, in the character of confederate States, was already invoking recognition, aid, and intervention from foreign powers. . .
>
> And this issue embraces more than the fate of these United States. It presents to the whole family of man the question whether a constitutional republic or democracy — a government of the people by the same people — can or cannot maintain its territorial integrity against its own domestic foes. It presents the question whether discontented individuals, too few in number to control administration according to organic law in any case, can always, upon the pretenses made in this case, or on any other pretenses, or arbitrarily without any pretense, break up their government, and thus practically put an end to free government upon the earth. It forces us to ask: Is there in all republics this inherent and fatal weakness? Must a government, of necessity, be too *strong* for the liberties of its own people, or too *weak* to maintain its own existence?
>
> So viewing the issue, no choice was left but to call out the war power of the government, and so to resist force employed for its destruction by force for its preservation. . .
>
> It might seem, at first thought, to be of little difference whether the present movement at the South be called "secession" or "rebellion". The movers, however, will understand the difference. At the beginning they knew they could never raise their treason to any respectable magnitude by any name which implies *violation* of law. They knew their people possessed as much of moral sense, as much devotion to law and order, and as much pride in reverence for the history and government of their common country as any other civilized and patriotic people. They knew they could make no advancement directly in the teeth of these strong and noble sentiments. Accordingly, they commenced by an insidious debauching of the public mind. they invented an ingenious sophism which, if conceded, was followed by perfectly logical steps, through all the incidents, to the complete destruction of the Union. The sophism itself is that any State of the Union may consistently with the national Constitution, and therefore lawfully and peacefully, withdraw from the Union without the consent of the Union or of any other State. . .
>
> What is now combated is the position that secession is consistent with the constitution — is lawful and peaceful. It is not contended that

> there is any express law for it; and nothing should ever be implied as law which leads to unjust or absurd consequences. . .
>
> The seceders insist that our Constitution admits of secession. They have assumed to make a national constitution of their own, in which of necessity they have either discarded or retained the right of secession as they insist it exists in ours. If they have discarded it, they thereby admit that on principle it ought not to be in ours. If they have retained it, by their own construction or ours, they show that to be consistent they must secede from one another whenever they shall find it the easiest way of settling their debts, or effecting any other selfish or unjust object. The principle itself is one of disintegration and upon which no government can possibly endure. . .
>
> This is essentially a people's contest. On the side of the Union it is a struggle for maintaining in the world that form and substance of government whose leading object is to elevate the condition of man — to lift artificial weights from all shoulders; to clear the paths of laudable pursuit for all; to afford all an unfettered start, and a fair chance in the race of life. Yielding to partial and temporary departures, from necessity, this is the leading object of the government for whose existence we contend. . .
>
> Our popular government has often been called an experiment. Two points in it our people have already settled — the successful establishing and the successful administering of it. One still remains — its successful maintenance against a formidable internal attempt to overthrow it. It is now for them to demonstrate to the world that those who can fairly carry an election can also suppress a rebellion; that ballots are the rightful and peaceful successors of bullets; and that when ballots have fairly and constitutionally decided, there can be no successful appeal back to bullets; that there can be no successful appeal, except to ballots themselves, at succeeding elections. Such will be a great lesson of peace: teaching men that what they cannot take by an election, neither can they take it by war; teaching all the folly of being the beginners of a war. . .[2]

Others — free blacks, abolitionists, radical Republicans — did not accept Lincoln's view. Rather, they saw the war and the cause of Negro freedom inextricably bound. They argued that the issue of slavery was at the heart of the sectional conflict and that there could be no real victory without emancipation of the slaves. Furthermore, they contended that slavery was an added strength to the Confederacy. Articles by southerners tended to substantiate their claims:

> The total white population of the eleven States now comprising the Confederacy is 6,000,000 and therefore, to fill up the ranks of the proposed army (600,000) about ten percent of the entire white population will be required. In any other country than our own such a draft could not be met, but the Southern States can furnish that number of men, and still not leave the material interests of the country in a suffering condition. Those who are incapacitated for bearing arms can oversee the plantations, and the negroes can go on undisturbed in their usual labors. In the North the case is different; the men who join the army of subjugation are the laborers, the producers, and the factory operatives. Nearly every man from that section, especially those from the rural districts, leaves some branch of industry to suffer during his absence. The institution of slavery in the South alone enables her to place in the field a force much larger in proportion to her white population than the North. . . The institution is a tower of strength to the South, particularly at the present crisis, and our enemies will be likely to find that the "moral cancer" about which their orators are so fond of prating is really one of the most effective weapons employed against the Union by the South. Whatever number of men may be needed for this war, we are confident our people stand ready to furnish.[3]

Frederick Douglass, a free black and an active abolitionist, stated:

> The slaveholders. . . boast that the slave population is a grand element of strength, and that it enables them to send and sustain a stronger body of rebels to overthrow the Government than they could otherwise do if the whites were required to perform the labors of cultivation; and in this they are unquestionably in the right, provided the National Government refuses to turn this mighty element of strength into one of weakness. . . Why? Oh! why, in the name of all that is national, does our Government allow its enemies this powerful advantage?. . . The very stomach of this rebellion is the negro, and you smite rebellion in the very seat of its life. . . The negro is the key to the situation — the pivot upon which the whole rebellion turns. . . Teach the rebels and traitors that the price they are to pay for the attempt to abolish this Government must be the abolition of slavery. . . Henceforth, let the war cry be down with treason, and down with slavery, the cause of treason.[4]

Lincoln, however, persisted in his caution. But as the war dragged on and the expectation of it being a short, easy war faded, Lincoln found himself in a tenuous position. Under constant attack and criticism from the Joint Committee on the conduct of war, headed by the "Radical Republicans," and watching the northern armies absorbing major defeats, it soon became evident to him that some device was needed that would add fervor to the Union cause. The Radicals had earlier pushed through legislation abolishing slavery in the territories and in the District of Columbia. And in a much more sweeping act, the Second Confiscation Act of 1862 had declared the property, including slaves, of all persons supporting the rebellion to be forfeited and captured and escaped slaves, to be free. Meanwhile, the Confederacy had made overtures to Europe for support of its cause. Lincoln realized that if he adopted an emancipation policy — making the war a fight for human freedom as well as a fight to save the Union — he would not only enlist the abolitionist fervor, giving the war a much needed spark, but gain friends in Europe for the Union. He announced his plans to his cabinet in July 1862, emphasizing that emancipation was strictly a military measure. But while privately changing his mind about the emancipation issue, Lincoln publicly was maintaining the posture that he did not want to combine the issue of slavery with the issue of saving the Union. In an answer to an open letter by Horace Greeley, owner of the New York Tribune, a noted publicist and an outspoken critic of slavery, Lincoln, on August 22, 1862, again succinctly stated his policy:

> . . . I would save the Union. I would save it the shortest way under the Constitution. The sooner the National authority can be restored, the nearer the Union will be "the Union it was." If there be those who would not save the Union unless they could at the same time *save* Slavery, I do not agree with them, if there be those who would not save the Union unless they could at the same time *destroy* Slavery, I do not agree with them. My paramount object in this struggle *is* to save the Union, and is *not* either to save or destroy Slavery. If I could save the Union without freeing *all* the slaves, I would do it; and if I could do it by freeing some and leaving others alone, I would also do that. What I do about Slavery and the colored race, I do because I believe it helps save this Union; and what I forbear, I forbear because I do *not* believe it would help to save the Union. I shall do *less* whenever I shall believe what I am doing hurts the cause, and I shall do *more* whenever I shall believe doing more will help the cause. I shall try to correct errors when shown to be errors; and I shall adopt new views so fast as they shall appear to be true views. I have here stated my purpose according to my view of official duty, and I intend no modification of my oft-expressed *personal* wish that all men, everywhere, could be free.[5]

However, just a month later on September 22, 1862, he issued a preliminary emancipation proclamation stating that final proclamation would be issued on January 1, 1863, unless the Confederacy surrendered. It is conjectured that Lincoln waited to make his announcement public because he felt that it should coincide with a major Union victory. His chance came when Lee was forced to withdraw into Virginia after the Battle of Antietam. At any rate, when the South did not surrender, Lincoln issued the famous proclamation.

January 1, 1863

By the President of the
United States of America
A *Proclamation*

Whereas, on the twentysecond day of September, in the year of our Lord one thousand eight hundred and sixty two, a proclamation was issued by the President of the United States, containing, among other things, the following, to wit:

> "That on the first day of January, in the year of our Lord one thousand eight hundred and sixty three, all persons held as slaves within any State or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free; and the Executive Government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons, and will do not act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.
>
> "That the Executive will, on the first day of January aforesaid, by proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any state, or the people thereof, shall on that day be in good faith represented in the Congress of the United States, by members chosen thereto at elections wherein a majority of the qualified voters of such states shall have participated, shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such State, and the people thereof, are not then in rebellion against the United States."

> Now, therefore, I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as commander-in-chief of the army and navy of the United States, in time of actual armed rebellion against the authority and government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and in accordance with my purpose so to do, publicly proclaimed for the full period of one hundred days from the day first above mentioned, order and designate as the states and parts of states wherein the people thereof, respectively, are this day in rebellion against the United States, the following, to wit:
>
> Arkansas, Texas, Louisiana (except the parishes of St. Bernard, Plaquemines, Jefferson, St. Johns, St. Charles, St. James, Ascension, Assumption, Terre Bonne, Lafourche, St. Mary, St. Martin, and Orleans, including the city of New Orleans), Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, and Virginia (except the forty-eight counties designated as West Virginia, and also the counties of Berkeley, Accomac, Northampton, Elizabeth City, York, Princess Ann, and Norfolk, including the cities of Norfolk and Portsmouth), and which excepted parts are for the present left precisely as if this proclamation were not issued.
>
> And by virtue of the power and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated states and parts of states are, and henceforward shall be free; and that the Executive Government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.
>
> And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defense; and I recommend to them that, in all cases when allowed, they labor faithfully for reasonable wages.
>
> And I further declare and make known that such persons, of suitable condition, will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service.
>
> And upon this act, sincerely believed to be an act of justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind and the gracious favor of Almighty God.
>
> In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.
>
> Done at the city of Washington this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and of the Independence of the United States of America the eighty seventh.[6]

In churches, in homes, in the streets of Northern cities, blacks and whites had gathered to await Lincoln's signing of the Proclamation. Frederick Douglass' response to the Proclamation was typical: "We shout for joy that we live to record this righteous decree."

The abolitionist poet John Greenleaf Whittier wrote:

O dark, sad millions, patiently and dumb
Waiting for God, your hour, at last, has come
And Freedom's Song
Breaks the long silence of your night of wrong!

Arise and flee! Shake off the vile restraint
Of ages! but, like Ballymeana's saint,
The oppressor spare,
Heap only on his head the coals of prayer!

Go forth, like him! like him, return again,
To bless the land whereon the bitter pain
Ye toiled at first,
And heal with freedom what your slavery cursed![7]

Not all the response to the Emancipation Proclamation was so joyous or hopeful. The editor of the *New York World* described it as:

> ". . . clearly unconstitutional and wholly void unless sustainable as a war measure. A war measure it clearly is not, inasmuch as the previous success of the war is the only thing that can give it validity."

The *New York Herald:*

> "last card of the abolition Jacobins. . . unnecessary, unwise and ill-timed, impracticable, outside of the Constitution and full of mischief. . . possibly destroying the Union instead of saving it."[9]

The *Boston Courier:*

> ". . . stupendous folly"
> "We are amazed that he should venture to invoke the favor of Almighty God upon a proceeding, which, if effectual at all. . . would consign millions of God's accountable creatures to slaughter, and to be the victims of every brutal passion which can infuriate the human breast."[10]

Expectedly, the Confederate states were opposed to the measure as they had been to the preliminary proclamation issued in September. In September the *Richmond Examiner* had said:

> "The government of the United States has shot its bolt. . . It will have no effect on the South; its only serious importance is its indication that the North will stop at nothing in prosecuting the War. . ." It was a "call for the insurrection of four million slaves, and the inauguration of a reign of hell upon earth!"[11]

In January the *Examiner* declared:

> "It shuts the door of retreat and repentance on the weak and timid."

The *Richmond Whig* merely reprinted the Proclamation under the caption "The Latest 'Bull' from Lincoln."[12]

And Jefferson Davis called it the "most startling political crime, the most stupid political blunder, yet known in American history."

Despite the criticisms of those who opposed the measure — despite the joy and exaltation of those who had worked long and hard to see the realization of freedom for the enslaved — the Emancipation Proclamation did not immediately free a single slave. The Proclamation applied only to those slaves within Confederate territory. The loyal slave states — Missouri, Delaware, Maryland, and Kentucky — were exempted as well as Tennessee and parts of Louisiana and Virginia which were already restored to Federal jurisdiction.

Blacks in Harrisburg, Pennsylvania, while taking note of the limitations of the Proclamation, were still hopeful for the future:

> *Resolved*, That we, the colored citizens of the city of Harrisburg, hail the 1st day of January, 1863, as a new era in our country's history — a day in which injustice and oppression were forced to flee and cower before the benign principles of justice and righteousness. . .
> *Resolved*, That if our wishes had been consulted we would have preferred that the proclamation should have been general instead of partial; but we can only say to our brethren of the "Border States," be of good cheer — the day of your deliverance draweth nigh — do not act contrary to the rules of propriety and good citizenship, for the rod of your oppressors will eventually be smitten by the omnipotence of truth.
> *Resolved*, That we are well aware that freedom and citizenship are attended with responsibilities; and that the success or failure of the proclamation depend entirely upon ourselves, as public sentiment will be influenced for or against that righteous decree, by our correct deportment and moral standing in this community.
> *Resolved*, That although the proclamation was not made as an act of philanthropy, or as a great deed of justice due to those suffering in bonds, but simply as a war measure, still in it we recognize the hand of God; and for it we are constrained to say, roll forward the day when the American soil shall no more be polluted with that crime against God, American slavery; but all will be able to say, "Glory to God in the highest, on earth peace and good will to man."[13]

The Emancipation Proclamation, while not freeing any slaves on January 1, 1863, did pave the way for the passage by Congress in 1865 of the 13th Amendment which finally ended slavery in the United States. It can also be said that the Proclamation markedly shifted the moral basis of the conflict from a war fought to restore the Union to a battle for human freedom.

The issuance of the Emancipation Proclamation settled the long-standing question of whether blacks should be allowed to serve as soldiers in the sectional conflict. Despite the fact that blacks had served their country nobly in both the Revolutionary War and the War of 1812, federal law barred Negroes from serving in the state militias and they were generally not accepted for enlistment in the regular United States army. Racial hatred was still intense against the Negro. Some Union enlisted men summed-up their feelings as follows:

> We don't want to fight side by side with the niggers. We think we are too superior a race for that.
>
> I don't believe you could make soldiers of these men at all, — they are afraid, and they know it.
>
> Negroes — plantation negroes, at least — will never make soldiers in one generation. Five white men could put a regiment to flight[14]

Lincoln himself, speaking to visiting delegations at the White House echoed the same feelings:

> To arm the Negroes would turn 50,000 bayonets from the loyal Border States against us that were for us. . .
> If I were to arm (the Negroes) I fear that in a few weeks the arms would be in the hands of the rebels. . .[15]

But some blacks, disregarding the insults and intimidation, were still persistent in their willingness to be ready when called. This editorial in the *Anglo-African* a weekly New York based black newspaper, was steadfast in its insistence that blacks remain committed to fighting for the Union cause:

> Hence, talk as we may, we *are* concerned in this fight and our fate hangs upon its issues. The South must be subjugated, or we shall be enslaved. In aiding the Federal government in whatever way we can, we are aiding to secure our own liberty; for this war can only end in the subjugation of the North or of the South. We do not affirm that the North is fighting in behalf of the black man's rights, as such — if this was the single issue, we even doubt whether they would fight at all. But circumstances have been so arranged by the decrees of Providence, that in struggling for their own nationality they are forced to defend our rights. . . Let us be awake, therefore brethren; a generous emulation in a common patriotism, and a special call to defend our rights alike bid us to be on the alert to seize arms and drill as soon as the government shall be willing to accept our services.[16]

The black soldiers themselves expressed their mission in the following song:

> Fremont told them, when it first begun,
> How to save the Union, and the way it should be done:
> But Kentucky swore so hard and old Abe he had his fears,
> Till every hope was lost but the colored volunteers.
>
> Chorus — O give us a flag, all free without a slave,
> We'll fight to defend it, as our Fathers did so brave.
> The gallant Company "A" will make the rebels dance,
> And we'll stand by the Union if we only have a chance.
>
> McClelland went to Richmond with two hundred thousand brave;
> He said, "Keep back the nigger," and the Union he would save.
> Little Mac he had his way — still the Union is in tears —
> *Now* they call for the help of the colored volunteers.
>
> Chorus — O, give us a flag, etc.
>
> Old Jeff says he'll hand us if we dare to meet him armed.
> A very big thing, but we are not at all alarmed,
> For he has first got to catch us before the way is clear,
> And "that is what's the matter with the colored volunteer."
>
> Chorus — O give, us a flag, etc.
>
> So rally, boys, rally, let us never mind the past;
> We had a hard road to travel, but our day is coming fast,
> For God is for the right, and we have no need to fear —
> The Union must be saved by the colored volunteer.
>
> Chorus — O, give us a flag, etc.[17]

2. WHAT SHOULD BE THE POLICY TOWARD THE DEFEATED CONFEDERATE STATES?

The ending of the Civil War put an end to the question of disunity, but it raised another equally difficult one. What was to be done with the Confederate States? What was to be their Constitutional status? Were they to be considered conquered territory or were they still members of the federal Union? And who was to decide their legal status — the Congress or the President? Should the terms of their reinstatement be harsh or lenient? Should there be conciliation or occupation?

Before the war was over, Congress and the President did not agree on what each of their roles would be in reconstructing the South. The Constitution gave very little direction. Presidents Lincoln and Johnson both opted for the alternative of conciliation.

On May 29, 1865, President Johnson expressed his policies in a Proclamation of Amnesty:

> . . . To the end, therefore, that the authority of the Government of the United States may be restored and that peace, order, and freedom may be established, I, Andrew Johnson, President of the United States, do proclaim and declare that I hereby grant to all persons who have, directly or indirectly, participated in the existing rebellion, except as hereinafter excepted, amnesty and pardon, with restoration of all rights of property, except as to slaves. . . but upon the condition, nevertheless, that every such person shall take and subscribe the following oath (or affirmation) and thenceforward keep and maintain said oath inviolate, and which oath shall be registered for permanent preservation and shall be of the tenor and effect following, to wit:
>
> I, ____________ ________________, do solemnly swear (or affirm), in presence of Almighty God, that I will henceforth faithfully support, protect and defend the Constitution of the United States and the Union of States thereunder, and that I will in like faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves. So help me God.
>
> *Provided*, That special application may be made to the President for pardon by any person belonging to the excepted classes, and such clemency will be liberally extended as

> may be consistent with the facts of the case and the peace and dignity of the United States.[18]

Once the oath of allegiance was taken, a vote was to be held establishing a constitutional convention in each state. The convention must repudiate the confederate and state debts, abolish slavery and repeal the state's ordinances of secession. The state could then elect a new government and send representatives to Washington.

By the end of 1865, all the Southern States had been readmitted to the union under either Johnson's or Lincoln's plan — but with no freedman or free blacks being allowed to vote, the former Confederates governed their states in much the same way that they had previously done before the war. A few rights were given to freedmen, but many more were withheld. In many areas, freedmen had to undergo curfew laws, were forbidden to possess liquor or firearms, or to act in any manner that could be considered insolent toward whites. These organized systems of laws against blacks were known as Black Codes. Sections from the Mississippi and Louisiana codes read:

3. Mississippi Vagrant Law

> Sec. 2. . . All freedmen, free negroes and mulattoes in this State, over the age of eighteen years, found on the second Monday in January, 1866, or thereafter, with no lawful employment or business, or found unlawfully assembling themselves together either in the day or night time, and all white persons so assembling themselves with freedmen, free negroes or mulattoes, or usually associating with freedmen, free negroes or mulattoes, on terms of equality, or living in adultery or fornication with a freed woman, free negro or mulatto, shall be deemed vagrants, and on conviction thereof shall be fined . . . and imprisoned at the discretion of the court. . .[19]

1. Black Code of Louisiana

> Sec. 2 Every laborer shall have full and perfect liberty to choose his employer, but when once chosen, he shall not be allowed to leave his place of employment until the fulfillment of his contract. . . and if they do so leave, without cause or permission, they shall forfeit all wages earned to the time of abandonment. . .
> Sec. 10. Be it further enacted, &c., That for gross misconduct on the part of the laborer, such as insubordination, habitual laziness, frequent acts of violation of his contract or the laws of the State, he may be dismissed by his employer.[20]

The enactment of the Black Codes, outbreaks of racial violence in the South, and Johnson's veto of the Civil Rights Act and the Freedmen's Bureau Bill, a wartime organization designed to supervise and aid ex-slaves, had the effect of affronting northern opinion and solidifying Republican opposition to the President's policy.

With the ascendency of a Republican majority, another phase of Reconstruction was begun. The Congress had previously been critical of both Lincoln's and Johnson's plans and felt it to be their right and not the right of the executive to determine the fate of the Confederate states. Thaddeus Stevens speaking in December, 1865, stated:

> It is obvious from all this that the first duty of Congress is to pass a law declaring the condition of these outside or defunct States, and providing proper civil governments for them. Since the conquest they have been governed by martial law. Military rule is necessarily despotic, and ought not to exist longer than is absolutely necessary. . .
>
> But this is not all that we ought to do before inveterate rebels are invited to participate in our legislation. We have turned, or are about to turn, loose four million slaves without a hut to shelter them or a cent in their pockets. The infernal laws of slavery have prevented them from acquiring an education, understanding the common laws of contract, or of managing the ordinary business of life. This Congress is bound to provide for them until they can take care of themselves. If we do not furnish them with homesteads, and hedge them around with protective laws; if we leave them to the legislation of their late masters, we had better have left them in bondage. . .
>
> If we fail in this great duty now, when we have the power, we shall deserve and receive the execration of history and of all future ages.[21]

Under Congressional or Radical Reconstruction, military occupation was finally given a try. At the outset, the purpose was social reform, and any reform in the South necessarily implied the Negro. The Congress, in over-riding the President's veto of the Freedman Bureau Bill and the Civil Rights Bill established the principle that the ex-slaves should receive federal protection. The text of the Freedman Bureau Bill stated:

> Be it enacted, That there is hereby established in the War Department, to continue during the present war of rebellion, and for one year thereafter, a bureau of refugees, freedmen, and abandoned lands. . .
>
> That the Secretary of War may direct such issues of provisions, clothing, and fuel, as he may deem

> needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children. . .
>
> That the commissioner, under the direction of the President, shall have authority to set apart, for the use of loyal refugees and freedmen, such tracts of land within the insurrectionary states as shall have been abandoned, or to which the United States shall have acquired title by confiscation or sale. . . and to every male citizen, whether refugee or freedman, there shall be assigned not more than forty acres of such land, and the person to whom it was so assigned shall be protected in the use and enjoyment of the land for three years at an annual rent not exceeding six per centum upon the value of the land. . .[22]

(The provision for land was never realized, probably because property in this era was valued so highly that few seriously considered giving it away to blacks).

The Civil Rights Act of 1866 provided:

> Be it enacted, that all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and colore without regard to any previous condition of slavery or involuntary servitude. . . shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens. . .[23]

In June of 1866, the Fourteenth Amendment was submitted to Congress. In effect the amendment guaranteed the individual Federal protection against oppression by the states, as well as defining the term citizenship.

> Sec. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
>
> Sec. 2 . . .But when the right to vote at any election. . . is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States. . . the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.[24]

Sections three and four of the amendment barred Confederate leaders from holding Congressional or federal office and forbade the states to repudiate the federal debt or recognize the rebel debt. The Congress realized that the amendment could not be ratified by three-fourths of the States without Southern support. In March, 1867 the Congress passed the first Reconstruction Act dividing the South into five military districts and making the ratification of the Fourteenth Amendment a requisite to representation in Congress:

> Sec. 5 That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election. . . and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification. . . and when such constitution shall have been submitted to Congress for examination and approval. . . and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress. . .[25]

Andrew Johnson vetoed the Reconstruction Act of 1867 on the grounds that:

> The power. . . given to the commanding officer over all the people of each district is that of an absolute monarch. His mere will is to take the place of all law. The law of the States is now the only rule applicable to the subjects placed under his control, and that is completely displaced by the clause which declares all interference of State authority to be null and void. . .
>
> It is plain that the authority here given to the military officer amounts to absolute despotism. . . It reduces the whole population of the ten States — all persons, of every color, sex and condition, and every stranger within their limits — to the most abject and degrading slavery.[26]

The Act was passed over Johnson's veto and clarified and strengthened in further legislation. In 1870, the Fifteenth Amendment, forbidding suffrage discrimination on the basis of "race, color, or previous condition of servitude," was ratified, ending the primary legislation of the Radicals. But all the legislation was undertaken with strong opposition from President Johnson, and with questionable constitutionality. To keep the Court out of the battle, the Congress simply removed certain types of cases from their jurisdiction.

The fight between the President and the Congress over Reconstruction — what the policy should be toward the Confederacy — created some lasting wounds. Cries of corruption in government, extravagance, ignorant Negro rule, have since been revised and moderated. Blacks were never in control of any state governments and while some of the Reconstruction governments were indeed corrupt and extravagant, corruption was common everywhere. Moreover there were positive accomplishments by these governments, including broader suffrage rights (for whites as well as blacks), poor relief, and the beginnings of free public instruction. Probably any successful Reconstruction program would have necessarily demanded Southern white and black cooperation. While whites were willing to concede Negro voting, they wanted it under white leadership. Negroes demanded real political equality.

> The darkies and the white folks in Union County had an insurrection over the polls about the year 1888. In them days, when you wanted to put a Republican man in, you didn't have to do much campaigning. They just went to the polls and put him in. Everybody that could vote was Republican. In the fall of 1888 they had a great trouble down there, and some of them got killed. They went around and commanded the Negroes not to go to the polls the next day. Some of the Negroes would tell them, "well, I am going to the polls tomorrow if I have to crawl." And then some of them would say, "I'd like to know how you going to vote?" The nigger would ask right back, "How you going to vote?" The white man would say, "I'm going to vote as I damn please." The nigger would say, "I'm going to do the same thing." That started the trouble.[27]

The following quotation from the *Atlanta News* in 1874 is typical of the Southern reaction to Reconstruction.

> Let there be White Leagues formed in every town, village and hamlet of the South, and let us organize for the great struggle which seems inevitable. If the October elections which are to be held at the North are favorable to the radicals, the time will have arrived for us to prepare for the very worst. The radicalism of the republican party must be met by the radicalism of white men. We have no war against the United States Government, but against the republican party our hate must be unquenchable, our war interminable and merciless. . . Every Southern State should swarm with White Leagues, and we should stand ready to act the moment Grant signs the civil-rights bill. It will not do to wait till radicalism has fettered us to the car of social equality before we make an effort to resist it. The signing of the bill will be a declaration of war against the southern whites. . . If the white democrats of the North are men, they will not stand idly by and see us borne down by northern radicals and half-barbarous negroes. But no matter what they may do, it is time for us to organize. We have been temporizing long enough. Let northern radicals understand that military supervision of southern elections and the civil-rights bill mean war, and that war means bloodshed, and that we are terribly in earnest, and even they, fanatical as they are, may retrace their steps before it is too late.[28]

Thus the white South, determined to drive out the "carpetbaggers" and "scalawags" and to subordinate the freedmen, formed secret organizations that resorted to violence and intimidation. One of the largest was the Ku Klux Klan founded in Tennessee in 1865. Their principles read:

> We, the Order of the *** [sic] reverentially acknowledge the majesty and supremacy of the Divine Being, and recognize the goodness and providence of the same. And we recognize our relation to the United States Government, the supremacy of the Constitution, the Constitutional Laws thereof, and the Union of States thereunder. . .
>
> This is an institution of Chivalry, Humanity, Mercy, and Patriotism; embodying in its genius and its principles all that is chivalric in conduct, noble in sentiment, generous in manhood, and patriotic in purpose; its peculiar object being. . .
>
> First: To protect the weak, the innocent, and the defenseless, from the indignities, wrongs, and outrages of the lawless, the violent, and the brutal; to relieve the injured and oppressed; to succor the suffering and unfortunate, and especially the widows and orphans of Confederate soldiers.
>
> Third: To aid and assist in the execution of all constitutional laws, and to protect the people from unlawful seizure, and from trial except by

> their peers in conformity to the laws of the land. . .[29]

For a time the North attempted to protect Negro rights from brutality and terror, but never really being committed to the idea of Negro equality, they became tired of the attempt. Ultimately, the policy of the government toward the Confederacy had the effect of creating a tenuous reconciliation between North and South at the expense of freedmen.

3. WHAT WAS TO BE DONE WITH THE 4,000,000 NEWLY EMANCIPATED BLACKS?

"People all laugh and say, 'All niggers free, all niggers free.' And I'd say: What is free?"

What is free? was a question that loomed large in the minds of both whites and blacks. For blacks because they were faced with the challenge of trying to achieve the freedom that the Emancipation Proclamation and the Thirteenth Amendment promised — for whites because they were faced with the challenge of accepting the fact that freedom was no longer an exclusive privilege but an inclusive right. The successful transition of an entire race from the status of slave to that of free men lay in the balance.

Concern over that transition was wide-spread among Negroes. North and South, freemen or free born, they came together to voice their feelings. In the fall of 1864, before the war's end, 144 blacks from eighteen states, including seven slave states, convened in Syracuse, New York, for a "National Convention of Colored Citizens of the United States." In a document they drafted called an "Address to the People of the United States" they in part stated:

> We want the elective franchise in all the States now in the Union, and the same in all such States as may come into the Union hereafter. We believe that the highest welfare of this great country will be found in erasing from its statute-books all enactments discriminating in favor of or against any class of its people, and by establishing one law for the white and colored people alike. Whatever prejudice and taste may be innocently allowed to dictate in social and domestic relations, it is plain, that in the matter of government, the object of which is the protection and security of human rights, prejudice should be allowed no voice whatever. In this department of human relations, no notice should be taken of the color of men; but justice, wisdom, and humanity should weigh alone, and be all-controlling.
>
> . . . If you still ask us why we want to vote, we answer, Because we don't want to be mobbed from our work, or insulted with impunity at every corner. We are men, and want to be as free in our native country as other men.[30]

An outgrowth of the National Convention of Colored Citizens was the National Equal Rights League under the leadership of John Mercer Langston. Blacks were urged to form state auxiliaries of the National Equal Rights League and the following are the demands of the Pennsylvania League:

> 1st, It is the duty of every colored citizen to obtain a repeal of the law which disfranchises him on the soil on which he was born. 2nd, Colored people should adopt the motto that self-reliance is the sure road to independence. . . 5th, As the nation has cast off slavery, let them destroy restrictions which prevent colored people from entering libraries, colleges, lecture rooms, military academies, jury boxes, churches, theatres, street cars, and from voting. . . 7th, Colored men at home should secure indemnity for the past, compensation for the present, and security for the future. 8th, We ask of the people a patient hearing and admission to our common brotherhood, the human race.[31]

And from the South, in an article appearing in the *New Orleans Tribune*,

> Emancipation is one fact, and effective liberty is another. Man does not have all his rights and privileges, he does not have free exercise of his faculties and skills by the simple consequence of the abolition of slavery. Old attitudes survive the proclamation of liberty, and old interests persist through the changes brought about by a new regime. After slavery has disappeared from the law, the former rulers seem to want to preserve slavery in fact. . . This party accepts emancipation it is true; but it wants the black to be happy with an empty liberty. Such liberty would be but a word; we want true liberty. . .[32]

The fight was not to be an easy one. The newly free slave found himself for the first time on his own — having to supply his own food, clothing, and shelter — having to educate himself in an environment that had denied him the right to an education — fighting for political equality in a country that did not accept him as an equal. It is not surprising that some ex-slaves found their new freedom perplexing.

> When old Master comes down in the cotton patch to tell us 'bout being free, he say, "I hates to tell you, but I knows I's got to — you is free, just as free as me or anybody else what's white." We didn't hardly know what he means. We just

> sort of huddle around together like scared rabbits, but after we knowed what he mean, din't many of us go, 'cause we didn't know where to of went.[33]

There were only a few alternatives for the freedman during reconstruction. The success of his freedom was dependent on his economic independence — of the ex-slave being able to find a means to take care of himself. He could choose to stay on the land; he could choose to leave the land and find other employment; or he could choose education as the way to a better future.

For those who chose to stay on the land, there was the hope of "40 acres and a mule." As early as 1862 Congress, with the urging of abolitionists, had proposed that reform in the Confiscation Act of 1862. The resolutions called for:

> . . .the land so seized and condemned should be distributed among the slaves who had been made free by the war and constitutional amendments, and who were residing on said land on the 4th of March 1861 or since, to each head of a family 40 acres; to each adult male whether head of a family or not, 40 acres; to each widow, head of a family, 40 acres; to be held by them in fee simple, but to be inalienable for ten years after they should become so seized thereof. . .[34]

However the Congress later rescinded the resolution by issuing a joint resolution forbidding permanent confiscation. Even though the promise of land was included in the legislation creating the Freedman's Bureau, and championed by Sumner and Stevens in the Congress, the promise was never actualized. That hope of a sound economic base lost, blacks turned to the ballot. Beverly Nash, an ex-slave and a South Carolina legislator commented:

> I believe, my friends and fellow citizens, we are not prepared for this suffrage. But we can learn. Give a man tools and let him commence to use them, and in time he will learn a trade. So it is with voting. We may not understand it at the start, but in time we shall learn to do our duty. . . It is not our desire to be a discordant element in the community, or to unite the poor against the rich. . . The white man has the land, the black man has the labor, and labor is worth nothing without capital. We must help to create the capital by restoring confidence, and we can only secure confidence by electing proper men to fill our public offices. . .[35]

Given the right to vote, blacks flocked to the polls and their votes helped elect 16 Negroes to Congress — including two to the Senate. South Carolina, Louisiana and Mississippi had at least one black lieutenant governor each, and several other states had blacks as superintendents of education and as speakers of the house in various state legislatures. Contrary to the opinion of black office holders as uneducated and ignorant, James G. Blaine of Maryland stated:

> The colored men who took seats in both Senate and House did not appear ignorant or helpless. They were as a rule studious, earnest, ambitious men, whose public conduct. . . would be honorable to any race.[36]

But the political success of blacks was short-lived. Through intimidation, violence, and extra-legal means (the grandfather clause, gerrymandering, the poll tax) black people by the turn of the century were almost totally disfranchised.

> They kept the Negroes from voting. They would whip them. They put up notices: "No niggers to come out to the polls tomorrow." They would run them off of government land which they had homesteaded. Sometimes they would just persuade them not to vote. A Negro like my father, they would say to him, "Now, Brown, you are too good to get messed up. Them other niggers round here ain't worth nothing, but you are, and we don't want to see you get hurt. So you stay 'way from the polls tomorrow."[37]

As southern whites attempted to gain back their supremacy, one important factor was the notion that blacks and whites must be kept separate. Segregation was not new. In the North and during the Confederate ascendency during the Civil War, segregationist policies were operative, but most of those practices had been nullified by Reconstruction.

In 1875 Tennessee revived the practice of segregation by passing the first of the "Jim Crow" laws. Soon the rest of the South had laws calling for separate cemeteries, public bathrooms, drinking fountains, and separate parks, and banning Negroes from theaters, restaurants and hotels. The legality of these laws was challenged in the case of Plessy v. Ferguson. The case involved the right of a black to sit in the white section of a railway car. The Court found that "separate but equal" was legal, and thus wrote segregation into American law. Justice Brown, for the prevailing opinion:

> . . .The constitutionality of this act is attacked upon the ground that it conflicts both with the Thirteenth Amendment of the Constitution, abolishing slavery, and the Fourteenth Amendment, which prohibits certain restrictive legislation on the part of the States.
>
> 1. That it does not conflict with the Thirteenth Amendment, which abolishes slavery and

involuntary servitude, except as a punishment for crime, is too clear for argument. Slavery implies involuntary servitude — a state of bondage. . .

2. . . .the object of the (Fourteenth) amendment was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored race have been longest and most earnestly enforced. . .

Laws forbidding the intermarriage of the two races may be said in a technical sense to interfere with the freedom of contract, and yet have been universally recognized as within the police power of the State. . .

So far, then, as conflict with the Fourteenth Amendment is concerned, the case reduced itself to the question whether the statute of Louisiana is a reasonable regulation, and with respect to this there must necessarily be a large discretion on the part of the legislature. In determining the question of reasonableness it is at liberty to act with reference to the established usages, customs and traditions of the people, and with a view to the promotion of their comfort, and the preservation of the public peace and good order. Gauged by this standard, we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the Fourteenth Amendment than the acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of state legislatures.

The argument also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured to the negro except by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits and a voluntary consent of individuals. . . Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal one cannot be inferior to the other civilly or politically. If one race is inferior to the other socially, the Constitution of the United States cannot put them upon the same plane.

Mr. Justice Harlan, dissenting: In respect of civil rights common to all citizens, the Constitution of the United States does not, I think, permit any public authority to know the race of those entitled to be protected in the enjoyment of such rights. Every true man has pride of race, and under appropriate circumstances when the rights of others, his equals before the law, are not to be affected, it is his privilege to express such pride and to take such action based upon it as to him seems proper. But I deny that any legislative body or judicial tribunal may have regard to the race of citizens when the civil rights of these citizens are involved. Indeed, such legislation, as that here in question, is inconsistent not only with that equality of rights which pertains to citizenship, National and State, but with the personal liberty enjoyed by every one within the United States. . .

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage and holds fast to the principles of constitutional liberty. But in view of the Constitution, in the eye of the law, there is in this country no superior dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved. It is, therefore, to be regretted that this high tribunal, the final expositor of the fundamental law of the land, has reached the conclusion that it is competent for a State to regulate the enjoyment by citizens of their civil rights solely upon the basis of race. . .

The arbitrary separation of citizens, on the basis of race, while they are on a public highway, is a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the Constitution. It cannot be justified upon any legal grounds.

> If evils will result from the commingling of the two races upon public highways established for the benefit of all, they will be infinitely less than those that will surely come from state legislation regulating the enjoyment of civil rights on the basis of race. We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of the law which, practically, puts the brand of servitude and degradation upon a large class of our fellow-citizens, our equals before the law. The thin disguise of "equal" accommodations for passengers in railroad coaches will not mislead any one, nor atone for the wrong this day done . . .[38]

The gains of Reconstruction had been transitory. Blacks had exchanged slavery for segregation. Susie King Taylor, a former slave, writing in 1902 said:

> . . .the war of 1861 came and was ended, and we thought our race was forever freed from bondage, and that the two races could live in unity with each other, but when we read almost every day of what is being done to my race by some whites in South, I sometimes ask, "Was the war in vain? Has it brought freedom, in the full sense of the word, or has it not made our condition more hopeless?"[39]

But blacks did not totally despair. As the century came to an end, many blacks moved to Northern cities seeking a better life. Others chose the promise of education.

Booker T. Washington describes the fervor of blacks for education:

> Few people who were not right in the midst of the scenes can form an exact idea of the intense desire which the people of my race showed for education. It was a whole race trying to go to school. Few were too young, and none too old, to make the attempt to learn. As fast as any kind of teachers could be secured, not only were day-schools filled, but night schools as well. The great ambition of the older people was to try to learn to read the Bible before they died. With this in view, men and women who were fifty and seventy-five years old would be found in the night-schools. Sunday schools were formed soon after freedom, but the principal book studied in the Sunday-school was the spelling book. Day-school, night-school, and Sunday-school were always crowded, and often many had to be turned away for want of room.[40]

Indeed through the efforts of the Freedman's Bureau, schools sprang up for blacks all over the South. The purpose of the schools was to give blacks the rudiments of education:

> If blacks are kept in ignorance they can be subjected to a system of serfdom. If we enlighten them they are secure against the machinations of their old enemies — to which they will always be subject until educated. . . Democracy without the schoolmaster is an impossibility. . . Universal suffrage without universal education would be universal anarchy.[41]

Du Bois in his book *Black Reconstruction* comments on the importance of Negro education during Reconstruction.

> Had it not been for the Negro school and college, the Negro would, to all intents and purposes, have been driven back to slavery. His economic foothold in land and capital was too slight in ten years of turmoil to effect any defense or stability. . .They avoided the mistake of trying to meet force with force. . . As it was, when reaction triumphed in 1876, there was already present a little group of trained leadership. . . They bent to the storm of beating, lynching and murder, and kept their souls in spite of public and private insult of every description.[42]

All other hopes temporarily lost, blacks were to carry the hope of education — the promise of a better life through learning — into the twentieth century.

4. HOW WAS THE SETTLEMENT OF THE FRONTIER TO BE RECONCILED WITH THE RIGHTS OF THE INDIANS?

The dramatic events of the Civil War and the subsequent reconstruction of the nation served to obscure what was happening in the Western frontier. Generally the American people had contented themselves with the idea of an advancing frontier. Waves of settlers had continually moved westward following the cries of land, timber, and water. But the frontier that emerged after the Civil War was different. The promise was not timber or water but great land expanses and gold. To the timeless figure of the farmer was added the figure of the cattleman, the miner, and the Indian on horseback desperately fighting to stave-off the tide of white settlement and to maintain his traditional homeland. It thus became a battle between an aggressive, expanding, civilization trying to tame the last untamed area within its borders, and nomadic Indians dependent on the land for their traditional cultures deciding to fight for the survival of their way of life.

The clash of cultures was inevitable. The whites had been contending with Indians for land since the first settlement of the country. In 1834 the high plains had been set aside as Indian Country, but the policy of a "permanent Indian frontier" was soon abandoned as more and more white settlers impinged upon Indian territory. Treaties that had guaranteed the trans-Mississippi lands to the Indian "as long as the stars shall shine and the rivers shall flow" began to be systematically abrogated in the decade prior to the Civil War. Indian leaders early realized their predicament. The Creek chief, Speckled Snake, when considering the advice of President Jackson to move beyond the Mississippi in 1829, spoke to his people:

> Brothers: We have heard the talk of our Great Fathers; it is very kind. He says he loves his red children. . .
>
> When the first white man came over the wide waters, he was but a little man. . . very little. His legs were cramped by sitting long in his big boat, and he begged for a little land. . .
>
> When he came to these shores the Indians gave him land, and kindled fires to make him comfortable. . .
>
> But when the white man had warmed himself at the Indian's fire, and had filled himself with the Indian hominy, he became very large. He stopped not at the mountain tops, and his foot covered the plains and the valleys. His hands grasped the eastern and western seas. Then he became our Great Father. He loved his red children, but he said: "You must move a little farther, lest by accident I tread on you."
>
> With one foot he pushed the red men across the Oconee, and with the other he trampled down the graves of our fathers. . .
>
> On another occasion he said, "Get a little farther; go beyond the Oconee and the Ocmulgee (Indian settlements in South Carolina and Georgia) — there is pleasant country." He also said, "It shall be yours forever."
>
> Now he says, "The land you live upon is not yours. Go beyond the Mississippi; there is game; there you may remain while the grass grows and the rivers run."
>
> Will not our Great Father come there also? He loves his red children, and his tongue is not forked.
>
> Brothers! I have listened to a great many talks from our Great Father. But they always began and end in this. . . "get a little farther; you are too near me." I have spoken.[43]

It was generally accepted by whites that the continual cession of Indian land was necessary for the advancement of civilization.

". . .the government has always demanded the removal of the Indian when their lands were required for agricultural purposes by the advancing settlements," was the view expressed by Secretary of the Interior in 1868.

A white government agent in Kansas said of land that he was protecting for the Osage Indians:

> The Indian lands are the best in the State, and justice would demand, as well as every consideration of policy and humanity, that those fertile lands should be thrown open to settlement and the abode of civilized and industrious men.

The Governor of the Colorado Territory in 1870:

> "God gave us the earth, and the fullness thereof. . . I do not believe in donating to these indolent savages the best portion of my territory, and I do not believe in placing the Indians on equality with the white man as landholder."

By 1862, tired of fatalistic acquiescence, the first major uprising occurred among the Iowa Sioux now living in Minnesota. Having been forced by land cessions to the territory near the Minnesota River, tension among the Sioux ran high because of the dishonesty and trickery of the government agents and traders. In the summer of 1862 when scheduled government provisions and annuities did not arrive, and the agency trader Andrew Myrick refused the Indians credit saying, "Let them eat grass or their own dung," the young Sioux braves were angered. Without the approval of their Chief, Little Crow, the braves murdered five settlers in the area. The braves later approached Little Crow arguing for war against the whites. Little Crow rejected their arguments, but when called a coward rebutted:

> . . .We are only little herds of buffalo left scattered; the great herds that once covered the prairies are no more. See! — the white men are like the locusts when they fly so thick that the whole sky is a snowstorm. You may kill one — two — ten; yes, as many as the leaves in the forest yonder, and their brothers will not miss them. Kill one, kill two, kill ten, and ten times ten will come to kill you. Count your fingers all day long and white men with guns in their hands will come faster than you can count.
>
> Yes, they fight among themselves (the Civil War) — away off. . . Yes, they fight among themselves, but if you strike at them they will all turn on you and devour you and your women and little children just as the locusts in their time fall on the trees and devour all the leaves in one day.
>
> You are fools. You cannot see the face of your chief; your eyes are full of smoke. You cannot hear his voice; your ears are full of roaring

> waters. Braves, you are little children — you are fools. You will die like the rabbits when the hungry wolves hunt them in the Hard Moon of January. Little Crow is not a coward. He will die with you.[44]

Though the Minnesota Sioux were defeated and severely punished for their acts, they had made the decision to resist and others followed their lead — the Cheyenne, the Arapaho, the Apache, the Ute of the Great Basin and the Nez Perce of Idaho, the Modocs of California and Oregon, the western Sioux and others — at one time or another all fought the white man for the right to the land.

The height of their resistance occurred between the years 1862 and 1877, but the harder the Indian fought against the inevitable, the more determined the United States government and the army were to be rid of the "Indian menace." Mistakes were made on both sides. Fault can be levied on the divided councils, the civilian administrators, soldiers arguing among themselves, soldiers disagreeing with the civilian administrators, settlers arguing with eastern humanitarians — greed, dishonesty, trickery — but part of the tragedy stemmed from outrage at traditional Indian methods of warfare. But whites also used barbaric tactics in warfare evidenced by the massacre that occurred at Sands Creek in 1864 against a band of Cheyenne and Arapaho Indians attempting to surrender. Led by Colonel J. M. Chivington, about 900 men attacked the unsuspecting camp at day-break, killing about one hundred men, women and children. The events that occurred are described:

> From down the creek a large body of troops were advancing at a rapid trot. . . more soldiers could be seen making for the Indian pony herds to the south of the camps: in the camps themselves all was confusion and noise — men, women and children rushing out of the lodges partly dressed: women and children screaming at sight of the troops: men running back into the lodges for their arms. . . I looked toward the chief's lodge and saw that Black Kettle had a large American flag tied to the end of a long lodgepole and was standing in front of his lodge, holding the pole, with the flag fluttering in the gray light of the winter dawn. I heard him call to the people not to be afraid, that the soldiers would not hurt them: then the troops opened fire from two sides of the camp.[45]

Other accounts elaborate on the atrocities:

> . . .There were some thirty or forty squaws collected in a hole for protection; they sent out a little girl about six years old with a white flag on a stick; she had not proceeded but a few steps when she was shot and killed. All the squaws in that hole were afterwards killed.[46]
>
> In going over the battleground the next day I did not see a body of man, woman or child but was scalped, and in many instances their bodies were mutilated in the most horrible manner — men, women, and children's privates cut out, & etc.; I heard one man say that he had cut out a woman's private parts and had them for exhibition on a stick; I heard another man say that he had cut the fingers off an Indian to get the rings on the hand; according to the best of my knowledge and belief these atrocities that were committed were with the knowledge of J. M. Chivington. . . I also heard of numerous instances in which men had cut out the private parts of females and stretched them over the saddle bows and wore them over their hats while riding in the ranks.[47]

Reports of such incidents served to arouse the eastern public's concern and Congress sought some solution to guarantee peace on the Plains. A Congressional Committee on the Condition of the Indian Tribes was formed. After visiting the West and taking testimony, the committee issued a report early in 1867, finding much of the problem caused by white aggression and over-zealous action by the army, and recommended a permanent commission to do further investigation. This Commission, composed of three generals and four civilians, was charged with removing the causes of friction between the two races; securing the safety of the overland routes; discovering permanent homes for the Indians; and finding ways of promoting Indian civilization without interfering with the rest of the United States.

The Commission was given the power to make treaties, which resulted in the agreement of 1868 upon which many present Indian grievances are based. The agreement called for the establishment of various reservations throughout the west, the largest one in Indian Territory (Oklahoma) to house the tribes of the southern and central plains. For their participation in the Civil War on the side of the Confederacy the Five Civilized Tribes (Choctaw, Cherokee, Creeks, Chickasaw and Seminole) were to have the western part of their land in Indian territory confiscated. The Sioux were given the "country north of the Platte River and east of the Summits of the Big Horn Mountains" (in Wyoming), and the forts on the Bozeman Trail were to be abandoned. This latter condition can be considered a major victory for the Sioux leader, Red Cloud. Considered a brilliant military strategist as well as diplomat, he had waged a two-year campaign of harrassment against encroachments into the Powder

River country and as a result, for the first time in American history a treaty agreement involved the abandonment of land by whites. Red Cloud himself had said before attending the Treaty meeting:

> The Great Father sent his soldiers out here to spill blood. I did not first commence spilling blood. . . If the Great Father kept white men out of my country, peace would last forever, but if they disturb me, there will be no peace. . . The Great Spirit raised me in this land. What I have said I mean. I mean to keep this land.[48]

But despite this effort at peace, when gold was found in the Black Hills of the Dakota country in 1875 — in the area confirmed to the Sioux in the agreement of 1868 — the government in Washington was not able to restrain the gold-struck miners. The Sioux again fought — this time under the leadership of Sitting Bull and Crazy Horse. While Crazy Horse defeated Custer at Little Big Horn in what had become known as Custer's Last Stand, he was later defeated and in 1877 the last major Sioux resistance was ended.

When gold was discovered on the Salmon River and the onslaught of miners transgressed into Western Idaho, lands held by the Nez Perce, they too struck back. The cycle of gold discoveries and Indian retaliation was to repeat itself. The venerable Chief Joseph, leader of the Nez Perce, guided his people masterfully in a fighting retreat over 1,500 miles toward the Canadian border. Mistakenly stopping just 50 miles short of his goal, he was forced to surrender. His words are memorable:

> I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Toohulsote is dead. The old men are all dead. It is the young men who say yes or no. He (Ollokot, Joseph's brother) who led the young men is dead. It is cold and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills and have no blankets, no food; no one knows where they are — perhaps freezing to death. I want to have time to look for my children and see how many of them I can find. Maybe I shall find them among the dead. Hear me, my chiefs. I am tired; my heart is sick and sad. From where the sun now stands I will fight no more forever.[49]

In the Southwest, the Apaches under Geronimo became incensed. But he too was forced to surrender in 1886 though border scrimmages continued for a few years.

There were others who fought — the Shoshones and Bannocks of Idaho (1872); The Crows of Montana, the Utes of Colorado (who lost 4 million acres of land), and the Modocs of Oregon. All battled courageously against this dynamic, sprawling culture, but in the end were forced into less desirable locations and smaller reservations.

In accordance with the social theory of the times, the reformers argued that Indians should be "civilized and assimilated." Francis Walker, a member of the Board of Indian Commissioners, in report outlined what he felt would be a solution to the Indian problem:

> The Indian Policy, so called, of the government is a policy, and is not a policy, or rather it consists of two polices, entirely distinct, seeming, indeed, to be mutually inconsistent and to reflect each upon the other: the one regulating the treatment of tribes which are potentially hostile, that is, whose hostility is only repressed just so long as, and so far as, they are supported in idleness by the government; the other regulating the treatment of those tribes which, from traditional friendship, from numerical weakness, or by the force of their location are either indisposed toward, or incapable of, resistance to the demands of the government. . .
>
> No one certainly will rejoice more heartily than the present Commissioner when the Indians of this country cease to be in a position to dictate in any form or degree to the government; when, in fact, the last hostile tribe becomes reduced to the condition of suppliants for charity. This is, indeed, the only hope of salvation for the aborigines of the continent. If they stand up against the progress of civilization and industry, they must be relentlessly crushed. The westward course of population is neither to be denied not delayed for the sake of all the Indians that ever called this country their home. They must yield or perish; and there is something that savors of providential mercy in the rapidity with which their fate advances upon them, leaving them scarcely the chance to resist before they shall be surrounded and disarmed. . .
>
> This is the true permanent Indian policy of the government. . .
>
> The people of the United States can never without dishonor refuse these two considerations:
>
> 1. That this continent was originally owned and occupied by the Indians, who have on this account a claim somewhat larger than the privilege of 160 acres of land and "find himself" in tools and stock, which is granted as a matter of course to any newly arrived foreigner who declares his intention to become a citizen; that something in the nature of an endowment, either capitalized or in the form of annual expenditures for a series of years for the benefit of the

> government as to the specific objects, should be provided for every tribe or band which is deprived of its roaming privilege and confined to a diminished reservation — such endowment being not in the nature of gratuity but in common honesty the right of the Indian on account of his original interest in the soil.
>
> 2. That inasmuch as the progress of our industrial enterprise has cut these people off from modes of livelihood entirely sufficient for their wants and for which they were qualified, in a degree which has been the wonder of more civilized races, by inherited aptitudes and by long pursuit, and has left them utterly without resource, they have a claim on this account again to temporary support and to such assistance as may be necessary to place them in a position to obtain a livelihood by means which shall be compatible with civilization. . .
>
> The freedom of expansion which is working these results is to us of incalculable value. To the Indian it is of incalculable cost. Every year's advance of our frontier takes in a territory as large as some of the kingdoms of Europe. We are richer by hundreds of millions; the Indian is poorer by a large part of the little that he has. This growth is bringing imperial greatness to the nation; to the Indian it brings wretchedness, destitution, beggary. Surely there is obligation found in considerations like these, requiring us in some way, and in the best way, to make good to these original owners of the soil by which we so greatly gain. . .[50]

But the well-intentioned reform turned-out to be a disaster. Congress passed the Dawes Act of 1887. It stated:

> Be it enacted & c. That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use. . . to allot the lands in said reservation in severalty to any Indian located thereon in quantities as follows:
>
> To each head of a family, one-quarter of a section;
> To each single person over eighteen years of age, one-eighth of a section; and
> To each other single person under eighteen years now living one-sixteenth of a section. . .
>
> And proved further. . . It shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase and release by said tribe such portions of its reservation not allotted as such tribe shall from time to time, consent to sell. . .
>
> Provided, that where lands are occupied by Indians who have bought and paid for the same, and which lands are not needed for farming or agricultural purposes and are not desired for individual allotments, the same may be leased by authority of the Council. . .[51]

The Dawes Act gradually extinguished tribal authority and ownership of land — reversing former policy. Reservation land was to be allotted to heads of families, each receiving 160 acres. Such parcels were to be held in trust pending complete ownership after twenty-five years. Indians not living in tribal fashion were to become citizens. Land not allotted to families could be sold to settlers with the proceeds from the sale going toward Indian education.

It is no wonder that in the late 1880's a prophet called Wovoka could capture the imagination of a impoverished, dwindling, disillusioned people. A convert to Christianity, Wovoka had a vision in which he spoke with his dead ancestors and the Creator. He was told that Judgement Day was imminent — that all races of men would die — but that there would be an Indian rebirth — that the Indian would live with the buffalo. The Creator had given Wovoka a dance to perform and the more often it was danced the sooner Judgement Day would come.

> All Indians must dance, everywhere, keep on dancing. Pretty soon in next spring great Spirit come. He bring back all game of every kind. The game be thick everywhere. All dead Indians come back and live again. They all be strong just like young men, be young again. Old blind Indian see again and get young and have fine time. When Great Spirit comes this way, then all Indians go to mountains, high up away from whites. Whites can't hurt Indians then. Then while Indians way up high, big flood comes like water and all white people die, get drowned. After that, water go way and then nobody but Indians everywhere and game all kinds thick. Then medicine man tell Indians to send word to all Indians to keep dancing and the good times will come. Indians who don't dance, who don't believe in this word, will grow little, just about a foot high, and stay that way. Some of them will be turned into wood and be burned in fire.[52]

Whites were fearful of the Ghost Dance, suspecting that it would create more Indian warfare. When the aged Sioux warrior, Sitting Bull, joined the dancers, orders were given for his arrest, and in the attempt, he was killed. The Sioux fled and were brought to bay at Wounded Knee in South Dakota. On December 29, 1890, while the group of Indians had gathered to be disarmed, a shot was fired by a young brave. In the next minutes 300 men, women and children were killed, including the Indian leader Big Foot. For a time, other bands of ghost dancers roamed, but they were eventually subdued. Wounded Knee became the symbol of all the injustices that whites had done to the Indian. Black Elk, Indian present at the Massacre, in retrospect:

> I did not know then how much was ended. When I look back now from this high hill of my old age, I can still see the butchered women and children lying heaped and scattered all along the crooked gulch as plain as when I saw them with eyes still young. And I can see that something else died there in the bloody mud, and was buried in the blizzard. A people's dream died there. It was a beautiful dream. . . the nation's hoop is broken and scattered. There is no center any longer, and the sacred tree is dead.[53]

The present day position of the Indian serves as evidence that the Dawes Act was not utopian but degradation. The majority of the reservation holdings went to whites; tribal authority was destroyed; much incentive was lost because of the waiting period; Indians were victimized by their white neighbors. The Act was finally reversed in 1934 with the Indian Reorganization Act designed to protect what remained of tribal life.

5. SHOULD THE GOVERNMENT INTERVENE IN THE MANAGEMENT OF THE ECONOMY AND THE REGULATION OF BUSINESS?

In the post-Civil War period, the predominant economic philosophy was laissez-faire. Combining the doctrines of Adam Smith and Herbert Spencer, the theories of Darwin and Sumner, educated Americans of the nineteenth century believed that human affairs were controlled by "immutable law." John D. Rockefeller, speaking during a Sunday school address:

> The American Beauty rose can be produced in the splendor and fragrance which bring cheer to its beholder only by sacrificing the early buds which grow around it. This is not an evil tendency in business. It is merely the working-out of a law of nature and a law of God.[54]

And the central law of the political economy was pursuit of individual self-interest. Adam Smith's assertion in 1776 that:

> Every individual is continually exerting himself to find out the most advantageous employment for whatever capital he can command. It is his own advantage, indeed, and not that of society, which he has in view. But the study of his own advantage naturally, or rather necessarily, leads him to prefer that employment which is most advantageous to society. . .[55]

meant to the average American that the welfare of society would be best served by the laissez-faire philosophy — that is, that free competition, without government interference, would allow healthy businesses to thrive, and thereby promote the national economy in the most effective way. Conservatives of the period used Darwin's theories on evolution and natural selection as a starting point to advance their position that "the positive functions of the state should be kept to the barest minimum."

> We civilised men. . . do the utmost to check the process of elinination; we build asylums for the imbecile, the maimed, and the sick; we institute poor-laws; and our medical men exert their utmost skill to save the life of every one to the last moment. . . Thus the weak members of civilised society propagate their kind. No one who has attended to the breeding of domestic animals will doubt that this must be highly injurious to the race of man.[56]

Thus the weak and the maimed — the poor and the sick — were seen as a hindrance to the overall progress of society. Life was a struggle for existence in which the "fittest" survived. William Graham Sumner, one of the foremost advocates of social Darwinism, speaking in a lecture in 1879 justified free competition on the basis that it promoted the "survival of the fittest":

> . . .Many of them are frightened at liberty, especially under the form of competition, which they elevate into a bugbear. They think it bears harshly on the weak. They do not perceive that here "the strong" and "the weak" are terms which admit of no definition unless they are made equivalent to the industrious and the idle, the frugal and the extravagant. They do not perceive, furthermore, that if we do not like the survival of the fittest, we have only one possible alternative, and that is the survival of the unfittest. The former is the law of civilization; the latter is the law of anti-civilization. We have our choice between the two, or we can go on, as in the past, vacillating between the two, but a third plan — the socialist desideratum — a plan for nourishing the unfittest and yet advancing in civilization, no man will ever find.[57]

In Herbert Spencer's view, the principles of evolution and natural selection would inevitably propel civilization toward a culmination in which "the fit" would achieve perfection:

> The ultimate development of the ideal man is logically certain — as certain as any conclusion

> in which we place the most implicit faith; for instance that all men will die... Progress, therefore, is not an accident, but a necessity. Instead of civilization being artificial, it is a part of nature; all of a piece with the development of the embryo the unfolding of a flower.

> Thus the doctrine of laissez-faire was taught by political economists: The millionaires are a product of natural selection, acting on the whole body of men to pick out those who can meet the requirement of certain work to be done... It is because they are thus selected that wealth — both their own and that entrusted to them — aggregates under their hands... they may fairly be regarded as the naturally selected agents of society for certain work. They get high wages and live in luxury, but the bargain is a good one for society. There is the intensest competition for their place and occupation. This assures us that the cost of it will be reduced to the lowest terms.[58]

The Episcopal Bishop of Massachusetts, William Lawrence preached:

> Now we are in a position to affirm that neither history, experience, nor the Bible necessarily sustains the common distrust of the effect of material wealth on morality... Godliness is in league with riches... the race is to the strong.[59]

The Supreme Court of the period gradually worked out an interpretation of the Fourteenth Amendment that made it a "bastion" of laissez-faire. The amendment's first section stated:

> No state shall deprive any person of life, liberty, or property without due process of law; nor deny to any person... the equal protection of the law.[60]

This was interpreted by the Court to include corporations. In Symth v. Ames in 1898 the Court decided that a corporation is a person; a corporation is entitled to a "fair and reasonable" return on its investment; and what is fair and reasonable would be decided by the Courts, not the state legislatures. The effect of the Supreme Court's interpretation of the Fourteenth Amendment was to severely limit and nullify state legislation, and by so doing, give business interest protection and encouragement. In Lockner v. New York in 1905 — a case concerning a law passed by the state that provided for a ten-hour day in bake shops — the Court found the law to be unconstitutional under the Fourteenth Amendment.

> The act is not, within any fair meaning of the term, a health law, but is an illegal interference with the rights of individuals, both employers and employees, to make contracts regarding labor upon such terms as they may think best, or which they may agree upon with the other parties to such contracts. Statutes of the nature of that under review, limiting the hours in which grown and intelligent men may labor to earn their living, are mere meddlesome interferences with the rights of the individual, and they are not saved from condemnation by the claim that they are passed in the exercise of the police power and upon the subject of the health of the individual whose rights are interfered with unless there be some fair ground, reasonable in and of itself, to say that there is material danger to the public health, or to the health of the employees, if the hours of labor are not curtailed...

Justice Holmes dissenting leveled criticism at the decision:

> ...The case is decided upon an economic theory which a large part of the country does not entertain... It is settled by various decisions of this court that state constitutions and state laws may regulate life in many ways which we as legislators might think as injudicious, or if you like as tyrannical, as this, and which, equally with this, interfere with the liberty to contract... The liberty of the citizen to do as he likes so long as he does not interfere with the liberty of others to do the same, which has been a shibboleth for some well-known writers, is interfered with by school laws, by the post-office, by every state or municipal institution which takes his money for purposes thought desirable, whether he like it or not. The Fourteenth Amendment does not enact Mr. Herbert Spencer's Social Statics... Some of these laws embody convictions or prejudices which judges are likely to share. Some may not. But a constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the state or of laissez-faire. It is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar, or novel, and even shocking ought not to conclude our judgment upon the question whether statutes embodying them conflict with the Constitution of the United States.[62]

However the strongest voice for the laissez-faire doctrine was business community. Andrew Carnegie tells of the impact of his first readings of Darwin and Spencer:

> I remember that light came as in a flood and all was clear. Not only had I got rid of the theology and the supernatural, but I had found the truth of evolution. "All is well since all grows better," became my motto, my true source of comfort. Man was not created with an instinct for his own

> degradation, but from the lower he had risen to the higher forms. Nor is there any conceivable end to his march to perfection. His face is turned to the light; he stands in the sun and looks upward.[63]

And Spencer himself, upon departing from America said of Carnegie (and Edward Livingston Youmens), "Here are my two best Americans friends." — the implications of his statement representing the harmony of the new philosophic outlook and the "business civilization."

But while Carnegie, Rockefeller and other members of America's business community could champion the principles of laissez-faire and "survival of the fittest," in practice they were not always adhered to or believed. The question of free competition can serve as a case in point. As business expanded and competition became more stringent, they acted to protect their profits and to end what they deemed as the "suicidal warfare" between companies by forming pools (secret agreements to fix and share markets). When the public and small businessmen became outraged, Rockefeller and his associates responded by developing the trust — another form of consolidation with the over-all effect of eliminating competition, limiting production, and price fixing. When protests were lodged against the trusts, businessmen devised the holding company. The industrialist actually hated and feared free competition. Rockefeller writing on consolidation stated:

> This movement was the origin of the whole system of modern economic administration. It has revolutionized the way of doing business all over the world. The time was ripe for it. It had to come, though all we saw at the moment was the need to save ourselves from wasteful conditions. . . The day of combination is here to stay.[64]

And while the dominant aspect of business ethic during that time was hands-off — no government interference in business affairs, businessmen were quite happy to accept governmental favors. "Businessmen, from Hamilton on, have never opposed government aid to business, only government hindrance in business affairs."

Jefferson's maxim, "That government is best which governs least," points to the recurrent ambivalence in American life and thought. We have wanted governmental action, yet we shy away from it. We want a free economy, but we want regulations to protect our private, individual interests.

In the post-Civil War years, government repeatedly intervened in the management of the economy and the regulation of business on the side of the industrial giants. But it did so in defense of the status quo — to maintain the Gospel of Wealth — to discourage efforts at reform and social change. The railroads, the key to economic growth, received tremendous federal and state support, particularly in the area of land grants; and the tariff reached unprecedented heights and continued to rise, almost uninterruptedly for the rest of the century. It was over the question of the high tariff that protests against special interests were focused.

The high tariff was criticized because it tended to place a heavy burden on the consumer while benefitting special interest groups. Moreover, because the functions of government were relatively simple, the tariff brought with it a treasury surplus. Reformers demanded that instead of giving away surpluses to pork-barrel appropriations, or reducing it by cutting taxes on luxuries, the tariff should be lowered on necessities that were mainly responsible for the excesses. Grover Cleveland, deciding to take a stand, devoted his entire annual message in 1879 to tariff reform:

> I have deemed it my duty to thus bring the knowledge of my countrymen, as well as to the attention of their representatives charged with the responsibility of legislative relief, the gravity of our financial situation. . .
>
> Our scheme of taxation is taken, by means of which this needless surplus is taken from the people and put into the public Treasury, consists of a tariff or duty levied upon importations from abroad and internal-revenue taxes levied upon the consumption of tobacco and spirituous and malt liquors. . .
>
> . . .Our present tariff laws, the vicious, inequitable, and illogical source of unnecessary taxation, ought to be at once revised and amended. These laws, as their primary and plain effect, raise the price to consumers of all articles imported and subject to duty by precisely the sum paid for such duties. . . Those who buy imports pay the duty charged thereon into the public Treasury, but the great majority of our citizens, who buy domestic articles of the same class, pay a sum at least approximately equal to this duty to the home manufacturer. This reference to the operation of our tariff laws is not made by way of instruction, but in order that we may be constantly reminded of the manner in which they impose a burden upon those who consume domestic products. . .
>
> In speaking of the increased cost to the consumer of our home manufactures resulting from a duty

> laid upon imported articles of the same description, the fact is not overlooked that competition among our domestic producers sometimes has the effect of keeping the price of their products below the highest limit allowed by such duty. But it is notorious that this competition is too often strangled by combinations quite prevalent at this time, and frequently called trusts, which have for their object the regulation of supply and price of commodities made and sold by members of the combination. The people can hardly hope for any considerations in the operation of these selfish schemes. . .[65]

Cleveland's attempt at reform became deadlocked in Congress and instead of a lower tariff being the highest priority of the succeeding administration, an ad valorem increase of about 4% was placed on the tariff. Referred to as the McKinley Tariff, it was not onhly protective but prohibitive. Almost eliminating foreign competition, it did so "not merely to protect infant industries but to call new industries into being." While raw sugar was put on the free list, the Sugar Trust was aided by granting American sugar growers a 2% per pound subsidy.

Though Cleveland's attempt at tariff reform was unsuccessful, the clamor for reform grew steadily especially after the turn of the century. It became harder and harder to reconcile the reality of the slums and abject poverty with the notion that it was a punishment for vice or to feel that prices and production would automatically adjust themselves to the needs of society. Henry George, in *Progress and Poverty*, criticizes:

> This association of poverty with progress is the great enigma of our times. It is the central fact from which spring industrial, social, and political difficulties that perplex the world, and with which statesmanship and philanthropy and education grapple in vain. From it come the clouds that overhang the future of the most progressive and self-reliant nations. . . So long as all the increased wealth which modern progress brings goes but to build up great fortunes, to increase luxury and make sharper the contrast between the House of Have and the House of Want, progress is not real and cannot be permanent.[66]

Lester Ward, sociologist and reformer, saw that society could be saved from degeneracy:

> . . .the only consolation, the only hope, lies in the truth. . . that so far as the native capacity, the potential quality, the "promise and potency," of a higher life are concerned, those swarming, spawning millions, the bottom layer of society, the proletariat, the working class, the "hewers of wood and drawers of water," nay, even the denizens of the slums — that all these are by nature the peers of the boasted "aristocracy of brains" that now dominates society and looks down upon them and the equals in all but privilege of the most enlightened teachers of eugenics.[67]

Critical of the "survival of the fittest" argument, Ward added:

> . . .If we call biologic processes natural, we must call social processes artificial. The fundamental principle of biology is natural selection, that of sociology is artificial selection. The survival of the fittest is simply the survival of the strong, which implies and would better be called the destruction of the weak. If nature progresses through the destruction of the weak, man progresses through the protection of the weak. . .
>
> . . .Those who have survived simply prove their fitness to survive; and the fact which all biologists understand, viz., that fitness to survive is something wholly distinct from real superiority, is of course ignored. . .[68]

In Edward Bellamy's novel *Looking Backward*, in which the hero wakes-up in the year 2000 and looks back to the year 1887, the destruction of the free enterprise system is forseen:

> The records of the period show that the outcry against the concentration of capital was furious. Men believed that it threatened society with a form of tyranny more abhorrent than it had ever endured. They believed that the great corporations were preparing for them the yoke of a baser servitude than had ever been imposed on the race, servitude not to men but to soulless machines incapable of any motive but insatiable greed. Looking back, we cannot wonder at their desperation, for certainly humanity was never confronted with a fate more sordid and hideous than would have been the era of corporate tyranny which they anticipated.
>
> Meanwhile, without being in the smallest degree checked by the clamor against it, the absorption of business by ever larger monopolies continued. In the United States there was not, after the beginning of the last quarter of the century, any opportunity whatever for individual enterprise in any important field of industry, unless backed by a great capital. . .[69]

As the capitalist entrepreneur began to lose his glamor for the middle class — as the middle class became more concerned about maintaining its own standard of living — protests against bigness and monopolies grew.

The Progressive impulse was to end corruption and to control "big business in the interest of free enterprise and free competition. Woodrow Wilson saw the danger to the "little man."

> American industry is not free, as once it was free. . . The man with only a little capital is finding it harder to get into the field, more and more impossible to compete with the big fellow. Why? Because the laws of this country do not prevent the strong from crushing the weak.[70]

Theirs was an attempt to preserve — to recapture the promise of America for the future. Following the pragmatism of Dewey and William James, they rejected the determinism of laissez-faire and Darwinism. They believed in "purpose" rather than "destiny."

> We can no longer treat life as something that has trickled down to us. We have to deal with it deliberately, devise its social organization, alter its tools, formulate its method, educate and control it. In endless ways we put intention where custom has reigned. We break up routines, make decisions, choose our ends, select means.[71]

Thus while in the post-Civil War era, big business looked to the government, the state, and the law for help in its thrust toward expanded production and growth, in the period after 1900, the little man began to look toward these agencies for help.

> The little individualist, recognizing his individual impotence, realizing that he did not possess within himself even the basis of a moral judgment against his big brother, began to change his point of view. He no longer hoped to right all things by his individual efforts. He turned to the law, to the government, to the state.[72]

6. WHAT SHOULD BE THE RIGHTS OF LABOR?

Soon after the ending of the Civil War and the abolition of slavery the following editorial was written in the *Boston Daily Evening Voice:*

> The workingmen's success is simply impossible without united and harmonious action. If the machinist says to the wielder of the pick and shovel, I will not associate with you — if you want better wages you must get it on your own hook; if the clerk says to the coal-heaver, between you and I [sic] there is a gulf fixed; or if the white says to the black, I do not recognize you as a fellow workman; and these feelings prevail, there is the end of hope for the labor movement.
>
> Look at it for a moment. There are now four million of the negro race about to enter the field of free labor. If we take them upon equal ground with ourselves in the contest for the elevation of labor, they become an ally; but if we reject them — say we will not work in the shop with them — what is the result? The black man's interests and ours are severed. He that might have been our cooperator becomes our enemy. This vast force of four million workers is in the field against us. We refuse their alliance; the enemy sees and seizes his opportunity, and the black man becomes our competitor. He will underwork us to get employment, and we have no choice but to underwork him in return, or at least to work as low as he, or starve. Shall we then be so blind and suicidal as to refuse to work with the black man? Here he is — a power to tell one side or the other in the contest for the elevation of labor. Shall this power be on our side, or on the side of our opponents? It is first offered to us. Shall we reject it? We hope there is more intelligence among workingmen than to persist in the indulgence of an old prejudice when that indulgence is the ruin of their cause.[73]

The passage is important because it shows an early concern for the unity of all working men —regardless of skill, regardless of color, it implies that the development of divisions in the working class would weaken efforts at unionization and would eventually effect all workers adversely. In attempting to reconcile its rights with business and management, labor's strongest posture would have been to show a solid united front. That they chose during the period 1865-1900 to abandon the cause of solidarity and ideology for "an aristocracy of skilled workers" and expedient goals — abandoned the challenge of reform for cooperation with capitalism — has in the long-run retarded the further organization of American industry and detrimentally affected both skilled and unskilled workers.

During the postwar decades, many workers were convinced that their best interests lay in dealing collectively for higher wages, shorter hours and safer working conditions. While the attempt to organize labor would meet with much opposition from large segments of the public, the press and the employers, the organizing of labor took two basic approaches — reform unionism and trade unionism.

The first national effort at organizing labor unions was the short-lived National Labor Union under the leadership of William H. Sylvis. Adopting as their goals the establishment of the eight-hour day, currency revision, formation of cooperatives, restriction of immigration, and the creation of a federal Department of Labor, they tended to rely more on political than economic action. Though they were instrumental in getting the federal government to adopt the eight-hour day for its employees, the NLU ceased to exist during the depression of the seventies. With the decline of the NLU, the Knights of Labor, founded in 1869, arose to take its place. Based on the principle that all workers —blacks and whites, skilled and unskilled — should band together, membership was open to any worker eighteen years or older, excluding bankers, professional gamblers, lawyers, doctors, and brewers. Using the slogan, "An injury to one is the injury to all," their constitution was very progressive:

PREAMBLE OF CONSTITUTION OF THE KNIGHTS OF LABOR
January 1, 1878

> The recent alarming development and aggression of aggregated wealth, which, unless checked, will invariably lead to the pauperization and hopeless degradation of toiling masses, render it imperative, if we desire to enjoy the blessings of life, that a check should be placed upon its power and upon unjust accumulation, and a system adopted which will secure to the laborer the fruits of his toil; and as this much-desired object can only be accomplished by the thorough unification of labor, and the united efforts of those who obey the divine injunction of labor, and the united efforts of those who obey the divine injunction that "In the sweat of thy brow shalt thou eat bread," we have formed the ***** [sic] with a view of securing the organization and direction, by co-operative effort, of the power of the industrial classes; and we submit to the world the object sought to be accomplished by our organization, calling upon all who believe in securing "the greatest good to the greatest number" to aid and assist us:
>
> I. To bring within the folds of organization every department of productive industry, making knowledge a standpoint for action, and industrial and moral worth, not wealth, the true standard of individual and national greatness.
>
> II. To secure to the toilers a proper share of the wealth that they create. . .
>
> III. To arrive at the true condition of producing masses in their educational, moral, and financial condition, by demanding from the various governments the establishment of bureaus of Labor Statistics.
>
> IV. The establishment of co-operative institutions, productive and distributive.
>
> V. The reserving of the public lands — the heritage of the people — for the actual settler; not another acre for railroads or speculators.
>
> VI. The abrogation of all laws that do not bear equally upon capital and labor. . . and the adopting of measures providing for the health and safety of those engaged in mining, manufacturing, or building pursuits.
>
> VII. The enactment of laws to compel chartered corporations to pay their employes weekly, in full. . .
>
> VIII. The enactment of laws giving mechanics and laborers a first lien on their work for their full wages.
>
> IX. The abolishment of the contract system on national, State, and municipal work.
>
> X. The substitution of arbitration for strikes, whenever and wherever employers and employes are willing to meet on equitable grounds.
>
> XI. The prohibition of the employment of children in workshops, mines, and factories before attaining their fourteenth year.
>
> XII. To abolish the system of letting out by contract the labor of convicts in our prisons and reformatory institutions.
>
> XIII. To secure for both sexes equal pay for equal work.
>
> XIV. The reduction of the hours of labor to eight per day, so that the laborers may have more time for social enjoyment and intellectual improvement, and be enabled to reap the advantages conferred by the labor-saving machinery which their brains have created.
>
> XV. To prevail upon governments to establish a purely national circulating medium . . .issued directly to the people, without the intervention of any system of banking corporations. . ."

But as progressive and hopeful as the Knights movement was, their posture on the solidarity of all workingmen stands out. As one member put it in his book, *The Great Labor Question or the Noble Mission of the Knights of Labor*, written in 1886:

> Perhaps one of the noblest acts of the Knights of Labor is that of rising above the prejudices of thousands and millions of people that were engendered against the negro race when they were in bondage."

A black newspaper, *The Globe and Lance* said:

> It is not organized as the special champion of the

> negro, but it has done more to abolish the color line, south and north. . . than all the politicians and special friends of freedom.[76]

In strikes, labor demonstrations, picnics, assembly halls, and the election of blacks to office, there tended to be widespread unity. Ida B. Wells, a black journalist and teacher — soon to be famous anti-lynch crusader, said of the Knights:

> I was fortunate enough to attend a meeting of the Knights of Labor. . . I noticed that everyone who came was welcomed and every woman from black to white was seated with the courtesy usually extended to white ladies alone in this town. It was the first assembly of the sort in this town where color was not the criterion to recognition as ladies and gentlemen. Seeing this I could listen to their enunciation of the principles of truth and accept them with a better grace than all the sounding brass and tinkling cymbal of a Moody or Sam Jones, even expounded in a consecrative house over the word of God. [77]

But the leadership of the Knights were not prepared to antagonize those members who did not want to grant full equality to blacks. At a convention held in Richmond, Virginia, a black from the New York delegation was refused accomodations, and the entire delegation chose to stay elsewhere. When the black delegate was given the honor of introducing Terence Powderly, head of the Knights, as an attempt to show the Knights disapproval toward the "regrettable distinctions" of color, the Knights and Powderly were severely criticized in the Southern Press. To mollify the opposition he wrote:

> I have no wish to interfere with the social relations which exist between the races of the South. . . There need be no further cause for alarm. The colored representatives to this convention will not intrude where they are not wanted, and the time-honored laws of social equality will be allowed to slumber undisturbed.[78]

In the 90's, the Knights declined and with their decline came a general reversal of their position toward blacks.

The general tenor of American labor unions was not revolutionary either in methods or aims. Rather American labor organizations tended to be conservative — finding their justification, as did the industrialist, in evolution and natural law. Samuel Gompers, head of the AFL, articulated the motivation of labor in the following statement:

> One would imagine by what is often considered the solution of the (labor) problem that it is going to fall among us, that a world cataclysm is going to take place. . . that we will go to bed one night under the present system and tomorrow morning wake up with a revolution in full blast, and the next day organize a Heaven on earth. That is not the way that progress is made; that is not the way the social evolution is brought about. . . We are solving the problem day after day. As we get an hour's more leisure every day it means millions of golden hours of opportunities, to the human family. As we get 25 cents a day wages increase, it means another solution, another problem solved, and brings us nearer the time when a greater degree of justice and fair dealing will obtain among men.[79]

Thus the goals of the labor movement were pragmatic and expedient as evidenced by the testimony given by Adolph Strasser of the Cigar Makers' Union in 1885 before the Senate Committee on Education and Labor:

> Chairman: You are seeking to improve home matters first?
>
> Strasser: Yes, Sir, I look first to the trade I represent. . . the interest of the men who employ me to represent their interests.
>
> Chairman: I was only asking you in regard to your ultimate ends.
>
> Strasser: We have no ultimate ends. We are going on from day to day. We fight only for immediate objects — objects that can be realized in a few years.[80]

While the goals of the old national trade unions that had broken-up during depression of the 1870's had been idealistic and humanitarian, the goals of the new leaders of organized labor were "practical." Their primary concerns were for improvement of hours, wages and working conditions for trade union members within the framework of the existing industrial system. While the leaders of the National Labor Union and Knights of Labor had been committed to the goal of labor solidarity, the AFL and Gompers abandoned that priority for the opportunity to advance and stabilize the cause of the skilled worker. While Gompers had claimed in the founding convention of the AFL in 1881 that, "We do not want to exclude any workingman who believes in and belongs to organized labor," the result of the fixed policy of most AFL affiliates to limit union organization to skilled workers had the effect of excluding women and foreign-born workers and blacks. Indeed the AFL's position concerning blacks points to the ambivalence and lack of commitment of the union not only to black-white labor solidarity but to the whole question of the solidarity of all workmen. Moreover the failure of blacks to be included into trade unionism stands as a testament to the racism of that period and the betrayal by all sectors of society of the cause of Negro equality.

During the 1880's and early 1890's Gompers maintained the position that AFL representatives should make special efforts to organize Negro workers and that city and state locals must not bar Negro delegates.

> If the colored man is not permitted to organize, if he is not given the opportunity to protect and defend his interest, if a chance is not given him by which he could uplift his condition, the inevitable result must follow, that he will sink down lower and lower in his economic scale. . .
>
> If our fellow white wage worker will not allow the colored worker to cooperate with him, he will necessarily cling to the other hand (that of the employer) who also smites him, but at least recognizes his right to work. If we do not make friends of the colored men they will of necessity be justified in proving themselves our enemies. . . I wish the slogan would come forth among the toilers of the South, working men organize regardless of color.[51]

Realizing that many locals barred blacks from membership, Gompers stance was to organize blacks into separate locals as a temporary measure until he could bring black workers into the federation.

> In other words, have the Union of white men organized and have the Union of colored men organize also, both unions to work in unison and harmony to accomplish the desired end.[52]

It is not surprising that the AFL affiliates did not agree with Gompers' position. Gompers' argument was that competition from black workers could be eliminated by including blacks in trade unions. The affiliates argued that competition could be eliminated simply by excluding blacks from the labor unions and the labor market. The Panic of 1893 and the ensuing six years of depression strengthened their desire to maintain their practices. AFL leaders generally rationalized their discrimination on the grounds that the docility and anti-union attitudes of blacks made organizing them virtually impossible. Blacks were stigmatized as "scabs" and "strike-breakers." W.E.B. Du Bois, while acknowledging that strike-breaking and the competition of "cheap" black labor kept down wages of white unionist, chided that blacks

> are not working for low wages because they prefer to, but because they have to . . . if Negroes had been received into the unions and trained into the philosophy of the labor cause (which for obvious reasons most of them did not know), they would have made as staunch union men as any.[53]

As late as 1895, James Duncan, second vice-president of the AFL in a letter to the National Association of Machinists:

> (As) long as you have the word "white" establishing a color line as part of your constitution either your action must be changed or your lodges and your national body must stand debarred from all affiliation . . .[54]

However several affiliates found ways to circumvent the constitution issue by transferring the color ban from the constitution to the ritual and allowing each lodge to regulate its own membership. In 1910 Samuel Gompers was said by the Saint Louis press to have "read the negro out of the labor movement." Though he said he was misquoted he did allude to the "present unpreparedness of the colored people as a whole for fully exercising and enjoying the possibilities existing in trade unionism."

Unions had gained the right of acceptance, but they had not met the challenge of including all workingmen.

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Chapter V
International Involvement, Social Change And Liberation (1912-1976)

INTRODUCTION

The years between 1912 and 1976 were years of profound change, symbolized in part by the transition from horse-drawn vehicles to automobile and jet plane travel, to rocket flight and moon exploration. Electronic media made world-wide communication almost instantaneous. Scientific advances in various fields, physics, for example, offered a potential either to benefit or to destroy human existence. Only in human relations was the change less than dramatic. The optimism of nineteenth century America was profoundly tempered by two world wars, a major depression, and the twin threats of atomic destruction and world hunger.

It was a time when the complexity of an industrial economy led to increasing government intervention. Protection for business had been traditional. During the Great Depression the state permitted legislation on behalf of the wage-earner, who gained the right to collective bargaining, social security, and minimum wages. Some claimed the state did too much; others sought to replace the whole system with socialism, others were glad merely to survive.

The population more than doubled, and part of the increase was provided by the 46 million new immigrants who were admitted during this time.

It was a time of increasing international involvement. Two global wars and the subsequent Cold War drew the United States into a position of leadership among the Western nations. America sent economic aid to nations that had been devastated by war, and also those that were threatened with Communist domination. Some received military aid. Hitherto little known, Korea and Vietnam became all too familiar to millions of Americans, either at first hand or on their television sets. Toward the end of the period, the Cold War gave way to new approaches. Although the People's Republic of China had been virtually off-limits for twenty years, an American President was able to brush past the "bamboo curtain" and enter Peking through an opening apparently made by a ping pong team.

It was also a time of growing concern for the civil and human rights of individuals. National voting rights were finally extended to women in 1920. As the result of the Civil Rights Movement, the constitutional rights of blacks and other minorities were supported by legislation that made enforcement more possible. The right of dissent, to depart from traditional life-styles, to maintain one's own cultural identity, was increasingly affirmed.

Many issues confronted the American people in addition to those presented in this chapter. Others, current in 1976, could have been included, such as: environmental protection, the need for sources of energy, the right-to-life of the unborn, the morality of genetic engineering, integrity in government, and the relation of the United States to revolutions in the Third World. The four issues that were selected are primarily historical, or they relate to the multi-cultural composition of the American population.

ISSUES

1. What is the relationship of the state to the economic security of the individual?

2. What should be the immigration policy of the United States?

3. How should the United States best promote and protect its international interests?

4. What are the civil and human rights of people in the United States, and how should the nation uphold them?

SELECTIONS RELATING TO THE ISSUES

1. WHAT IS THE RELATIONSHIP OF THE STATE TO THE ECONOMIC SECURITY OF THE INDIVIDUAL?

Increased industrialization brought many changes to Twentieth Century Americans. The day when the average individual could solve his own problems of food, clothing and shelter depending simply on his own initiative and industry, was past. With the new conditions came a need for new laws, new kinds of intervention of government on behalf of the individuals. The social welfare legislation of the Progressive Movement, the New Deal, and the New Frontier, exemplify the new and controversial relationship of the state to the economic security of the individual. To some, it was a departure from the principle of "rugged individualism" to which American progress was credited; to others, it was simply the government doing for individuals what it had been doing for business for several decades. Elihu Root expressed the philosophy of the new legislation to the New York Bar Association in 1912, as follows:

> The real difficulty appears to be that the new conditions incident to the extraordinary industrial development of the last half-century are continuously and progressively demanding the readjustment of the relations between great bodies of men and the establishment of new legal rights and obligations not contemplated when existing laws were passed or existing limitations upon the powers of government were prescribed in our Constitution. In place of the old individual independence of life in which every intelligent and healthy citizen was competent to take care of himself and his family, we have come to a high degree of interdependence in which the greater part of our perople have to rely for all the necessities of life upon the systematized co-operation of a vast number of other men working through complicated industrial and commercial machinery. Instead of the completeness of individual effort working out its own results in obtaining food and clothing and shelter, we have specialization and division of labor which leaves each individual unable to apply his industry and intelligence except in co-operation with a great number of those whose activity conjoined to his is necessary to produce any useful result. Instead of the give-and-take of free individual contract, the tremendous power of organization has combined great aggregations of capital in enormous industrial establishments working through vast agencies of commerce and employing great masses of men in movements of production and transportation and trade, so great in the mass that each individual concerned in them is quite helpless by himself. The relations between the employer and the employed, between the owners of aggregated capital and the units of organized labor, between the small producer, the small trader, the consumer, and the great transporting and manufacturing and distributing agencies, all present new questions for the solution of which the old reliance upon the free action of individual wills appears quite inadequate. And in many directions the intervention of that organized control which we call government seems necessary to produce the same result of justice and right conduct which obtained through the attrition of individuals before the new conditions arose.[1]

Written during the first agonizing years of the Great Depression, the Democratic Party Platform on which Franklin D. Roosevelt was elected in 1932 declared that

> . . . The only hope for improving present conditions, restoring employment, affording permanent relief to the people, and bringing the nation back to the proud position of domestic happiness and of financial, industrial, agricultural and commercial leadership in the world lies in a drastic change in economic governmental policies.[2]

Four years later, after the federal government had sponsored large-scale relief measures such as TVA, CWA, and NRA, Roosevelt gave the following reply to those who said that the government was spending too much money to help people who should have been helping themselves:

> The first thing before us on that famous March 4, 1933, was to give aid to those overtaken by disaster. We did that, and we are not ashamed of giving help to those who needed help. We furnished food relief, drought relief, flood relief, and work relief. Some people call these things waste. Some people ridicule the government agencies we set up. But you and I know that they are the agencies that have substituted food for starvation, work for idleness, hope instead of dull despair.
>
> Some people call these things meddling and interference. You and I know them to be new stones in a foundation with which we can build a safer, happier, more American America.
>
> We will not be content until all our people fairly share in the ever-increasing ability of America to provide a high standard of living for all its citizens.[3]

When a banker wrote that government relief had "broken down self-reliance and industry" and that he did not believe that society owed every man a living, the New Deal apologists replied that Hoover as President had not hesitated "to weaken the moral fiber of banks and insurance companies and manufacturing and industrial enterprises by handing them millions of dollars." At the same time some observers were alarmed when they heard that little children were boasting about whose father had been on relief longer. Planters in the South complained that relief made it impossible to get cheap Negro farm labor at 50 cents a day because the laborer could get $1.30 a day for pretending to work on a ditch. Roosevelt replied to the complaint with the observation, "I take it, from your . . . letter . . . that you approve of paying farm labor 40 to 50 cents per day. Somehow I cannot get it into my head that wages on such a scale make possible a reasonable American standard of living."

Over conservative opposition the New Deal developed the CCC, Civilian Conservation Corps; the TVA, Tennessee Valley Administration; the AAA, Agricultural Adjustment Administration; the NYA, National Youth Administration; the HOLC, Home Owners Loan Corporation; the WPA, Works Progress Administration, and other agencies. One of the most far-reaching pieces of legislation was the Social Security Act of 1935, whose title read:

> An Act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.[4]

Some of the criticism of the New Deal program came from those who had both fiscal and philosophical reservations. One of these was Senator Frederick Steiwer of Oregon, who objected to the WPA bill as follows:

> It appropriates money which is not in the Treasury and for the acquisition of which there is no revenue, and none can be adequately provided except by unreasonable and hurtful exactions and unfair burdens upon the people . . .
>
> It commits our Government to an obligation never heretofore recognized, namely, the duty of providing a job for those in need, instead of direct relief for the destitute in the form of food, clothes, and shelter . . .
>
> Its lack of definite purpose and its grant of unusual discretionary powers in the Executive breakdown the control of Congress over the expenditure of a vast sum of public money.
>
> All this is violation of centuries of experience and tradition and contrary to the spirit and purpose of the Constitution of our Country.[5]

Arthur Sloan of General Motors expressed the fears of organized business: "Industry has every reason to be alarmed at the social, economic, and financial implications . . . The dangers are manifest."

Depression days were hard for almost everyone, but they were hardest for the elderly and for minority groups, who had to receive relief through agencies that reflected the following letter to the NAACP from an Alabama father:

> Alabama
> April 27, 1934
>
> N.A.A.C.P. Dear Sir: — Please allow me to present a question to you which with myself is very important because I am one of the persons of families that is in very bad need of aid an up to this date have been denied so it have retch the stage that something must be did. It is a well known fact that one cannot live without food and clothes so a friend and myself being among the unemployed and is not getting any aid so far from the public welfare of this county is asking for aid or information about aid from some sorce. Will you see after this matter at once. We get a small order some time and for months can't get anything. Its awful bad to wait for someone who does not care to give you food. Is not there some way or some sorce that we colored people can overcome being shadowed by starvation and depending on something that will not give you food. Please inform me at once, if there is any other sorce of getting any relief. We are depending on you for relief or information as to where we might get food. We must have something at once. Please let me know at once.
>
> We will be waiting an answer from you.
>
> Very truly yours,
>
> P.S. We are men of families.[6]

On the other hand, the New Deal did open up many job opportunities for blacks in government service. Reporter Roi Ottley observed that:

> I was frankly surprised when I was in Washington recently to see the thousands of Negroes who were working for the government and to see the variety of jobs they were doing — jobs hitherto beyond wishful thinking. Many held positions of authority and influence, and others were patiently solving technical problems as economists, lawyers, chemists, and consultants of various sorts. Hundreds were operating office machines and a few worked as secretaries to both white and Negro officials.[7]

Socialism was advocated as a more effective system for eliminating injustice and poverty. In 1936 Norman Thomas wrote persuasively:

> . . . Socialism is first of all a reasoned conviction that plenty and peace, freedom and fellowship, lie within the grasp of men. It is the assertion

> that our failure to conquer poverty in the midst of potential abundance is the result of a system which is based on relative scarcity and upon the exploitation of the masses by an owning class. Socialism believes that men may be free by making power-driven machinery the slave of mankind. It believes in planned production for the use of all rather than an unplanned production for the profit of an owning class. It asserts that this type of production for use requires social ownership of land, natural resources and the principal means of production and distribution, including, of course, the entire system of money, banking, and credit. In the name of social ownership of land and tools it does not propose to house men in public barracks or to take from a worker his favorite hammer, violin or typewriter, or anything else which he uses without exploiting others. Socialism does intend to end absentee landlordism, but it intends to make men more, not less, secure in the occupancy and use of homes in which they live . . .[8]

A generation later, despite social legislation and the effect of wartime production, there was still "another America" of which Michael Harrington wrote convincingly. Following are selections from the book which is credited with influencing the "War on Poverty" programs of the New Frontier:

> There is an America we all know celebrated in speeches and advertised on television and in the magazines. It has the highest standard of living the world has ever known. There exists another America. In it live somewhere between 40 million and 50 million citizens of this land. They are poor. Here are the unskilled workers, the migrant farm workers, the aged, the minorities, and all the others who live in the other America. They are hungry. They are without adequate housing and education and medical care. Even more basic, this poverty twists and deforms the spirit. The American poor are pessimistic and defeated. They are the victims of mental suffering.
>
> Here is a familiar story that comes from those blind to poverty and its causes: "The poor are that way because they are afraid to work. And anyway they all have big cars. If they were like me (or my father or my grandfather), they could care for themselves. But they prefer to live on government handouts and cheat the taxpayers." But the real explanation of why the poor are poor is that they made the mistake of being born to the wrong parents, in the wrong section of the country, or in the wrong racial group. They have never had a chance to get out of the other America.
>
> Here is one form of the vicious circle of poverty. The poor get sick more than anyone else in the society. That is because they live in slums, jammed together under unhealthy conditions. They have inadequate diets, and cannot get decent medical care. When they become sick, they are sick longer than any other group in the society. Because they are sick more often and longer than anyone else, they lose wages and work, and find it difficult to hold a steady job. And because of this, they cannot pay for good housing, for a nutritious (healthy) diet, for doctors. At any given point in the circle, particularly when there is a major illness, they are likely to move to an even lower level and to begin the cycle, round and round, toward even more suffering.
>
> In a nation that could provide every citizen with a decent life, it is an outrage and a scandal that there should be such misery.
>
> There is only one institution in the society capable of acting to abolish poverty. That is the Federal government. The state governments in this country cannot deal with the problem of poverty. The cities are not now able to deal with poverty. Each day they become even less able. Private agencies of the society simply do not have the funds to deal with the other America. So, there is no place to look except toward the Federal government. Only the Federal government has the power to abolish poverty.
>
> We can now fulfill the age-old dream: Poverty can now be abolished. How long shall we ignore this other America in our midst? How long shall we look the other way while our fellow human beings suffer? How long?[9]

Concern for reform in the social order was expressed by church leaders as well as statesmen and politicians. Following are selections from a statement of principles adopted by the National Catholic Welfare Council in 1938:

> 1. That industrial and financial power must not be divorced from social responsibility; those exercising such power must always have in view the good of the industry or business as a whole and also the common good.
>
> 2. That a prominent aim of industry should be to provide stable employment so as to eliminate the insecurity and the other social ills that arise from excessive changes of employment and residence.
>
> 3. That as machinery is introduced into industry, workers thereby displaced should be guaranteed adequate protection.

4. That employment should be available for workers at not less than a family living income.

5. That a Christian Social Order in America will look forward to some participation by employees in profits, and management.

6. That a wide distribution of ownership of productive property should be encouraged by legislation.

7. That there should be limitations of hours of labor in keeping with human need for rest and relaxation. This is especially true in regard to the labor of women and young persons. The industrial employment of children outside of the family should be prohibited.

8. That monopoly should be controlled in the public interest.

9. That collective bargaining through freely chosen representatives be recognized as a basic right of labor.

10. That minimum wage standards be set up by law for labor unprotected by collective bargaining.

1. That the legitimacy of the profit motive in the development and conduct of business be frankly recognized; and its control in the interest of the common good should not aim at its extinction . . .

14. That after a man has given his productive life to industry, he should be assured of security against illness and dependent old age.

15. That a balance must be maintained between industrial and agricultural population and between the rewards for industrial and agricultural activity . . .

21. That a Christian Social Order can be maintained only on the basis of a full acceptance of the person and teachings of Jesus Christ.[10]

2. WHAT SHOULD BE THE IMMIGRATION POLICY OF THE UNITED STATES?

In The Garden Grass

In the garden grass
A morning dewdrop
Twinkles on a single leaf,
    Just so must I,
    A newly naturalized citizen.

Yachiyo Kido[11]

Immigration from Europe had not been restricted throughout the Nineteenth Century, except to persons who were disqualified for physical, mental, or moral considerations. When immigrants began coming in larger numbers from Southern and Eastern Europe, changes in the immigration laws were proposed to keep the population of the United States primarily of Northern European origin. Henry Cabot Lodge, Sr., gave his reasons for a literacy test to keep out a category of immigrants that he felt was undesirable:

> . . . The third method was to exclude all immigrants who could neither read nor write, and this is the plan which was adopted by the committee and which is embodied in this bill. In their report the committee have shown by statistics, which have been collected and tabulated with great care, the emigrants who would be affected by this illiteracy test . . . It is found, in the first place, that the illiteracy test will bear most heavily upon the Italians, Russians, Poles, Hungarians, Greeks, and Asiatics, and very lightly or not at all, upon English-speaking emigrants or Germans, Scandinavians, and French. In other words, the races most affected by the illiteracy test are those whose emigration to this country has begun within the last twenty years and swelled rapidly to enormous proportions, races with which the English-speaking people have never hitherto assimilated, and who are most alien to the great body of the people of the United States . . .
>
> . . . and it is on the moral qualities of the English-speaking race that our history, our victories, and all our future rest. There is only one way in which you can lower those qualities or weaken those characteristics and that is by breeding them out. If a lower race mixes with a higher in sufficient numbers, history teaches us that the lower race will prevail.
>
> . . . when you begin to pour in unlimited numbers of people of alien or lower races of less social efficiency and less moral force, you are running the most frightful risk that any people can run. The lowering of a great race means not only its own decline but that of human-civilization . . .[12]

The literacy test was adopted but did not make enough numerical difference to alleviate the concerns of its proponents.

The Immigration Act of 1924 did make significant changes for many categories of immigrants. Based on the census of 1890 it installed a quota system which discriminated in favor of Northern Europe to the extent that Germany was allotted 51,227 immigrants per year, and Italy only 3,845. Russia was given 2,248 openings. The Act began as follows:

> By the President of the United States of America
>
> **A Proclamation**
>
> Whereas it is provided in the act of Congress approved May 26, 1924, entitled "An act to limit the immigration of aliens into the United States, and for other purposes" that —
>
> "The annual quota of any nationality shall be two per centum of the number of foreign-born individuals of such nationality resident in continental United States as determined by the United States census of 1890, but the minimum quota of any nationality shall be 100 . . .
>
> **General note** — The immigration quotas assigned to the various countries and quota areas should not be regarded as having any political significance whatever, or as involving recognition of new governments, or of new boundaries, or of transfers of territory except as the United States Government has already made such recognition in a formal and official manner . . .
>
> **Calvin Coolidge**[13]

The new law did not pass without protest. Louis Marshall, chairman of the American Jewish Relief Committee, wrote a letter to President Coolidge which included the following paragraphs:

> This is the first time in the history of American legislation that there has been an attempt to discriminate in respect to European immigration between those who come from different parts of the continent. It is not only a differentiation as to countries of origin, but also of racial stocks and of religious beliefs.
>
> To add insult to injury, the effort has been made to justify this class legislation by charging that those who are sought to be excluded are inferior types and not assimilable. There is no justification in fact for such a contention. In common with all other immigrants, those who have come from the countries sought to be tabooed have been industrious and law-abiding and have made valuable contributions to our industrial, commercial and social development. They have done the hard, manual work which is indispensable to normal economical growth. Their children, educated in our public schools, are as American in their outlook as are those of the immigrants of earlier periods. Some of the intellectual leaders of the nation have sprung from this decried origin. During the World War some of these very immigrants and their children fought for the country, thousands of them waiving the exemption to which they would have been entitled.[14]

The 1924 law remained the basic statute for immigration for almost three decades, but during World War II there were some modifications which reflected war-time conditions. In 1941 consuls were given authority to bar persons whose activities they thought to be prejudicial to the best interests of the United States; in 1943 the law barring Chinese — who were now war allies — was repealed. In 1946 persons from the Philippines and East India were made eligible for citizenship.

During the Korean War and the McCarthyite effort to expose alleged Communists, the McCarran-Walter Act was passed over the President's veto. Although it abolished the Asian-exclusion provisions of previous laws, it retained the discriminatory quota system, and required a series of loyalty checks that were deeply resented. It listed 31 categories of persons to be excluded, and several hundred grounds of excludability. It attempted to exclude possible subversives, and made provisions to permit expulsion of dangerous aliens. Part of President Truman's veto message is quoted here:

> To the House of Representatives:
>
> I return herewith, without my approval, H. R. 5678, the proposed Immigration and Nationality Act.
>
> In outlining my objections to this bill, I want to make it clear that it contains certain provisions that meet with my approval . . .
>
> In one respect, this bill recognizes the great international significance of our immigration and naturalization policy, and takes a step to improve existing laws. All racial bars to naturalization would be removed, and at least some minimum immigration quota would be afforded to each of the free nations of Asia . . .
>
> The greatest vice of the present quota system, however, is that it discriminates, deliberately and intentionally, against many of the peoples of the world . . .
>
> . . . Such a concept is utterly unworthy of our traditions and our ideals It violates the great political doctrine of the Declaration of Independence that "all men are created equal." It denies the humanitarian creed inscribed beneath the Statue of Liberty proclaiming to all nations, "Give me your tired, your poor, your huddled masses yearning to breathe free."
>
> It repudiates our basic religious concepts, our belief in the brotherhood of man, and in the

works of St. Paul that "there is neither Jew nor Greek, there is neither bond nor free . . . for ye are all one in Christ Jesus."

The basis of this quota system was false and unworthy in 1924. It is even worse now . . . It is incredible to me that, in this year of 1952, we should again be enacting into law such a slur on the patriotism, the capacity, and the decency of large part of our citizenry . . .

I hope the Congress will agree to a careful reexamination of this entire matter. . .

Harry S. Truman[15]

Some of the "emergency legislation" to which Truman alluded in his veto message included the following: the Displaced Persons Act of 1948 which admitted 395,000 persons from war zones; the Refugee Relief Act of 1953 which gave special visas to refugees from Communist-dominated countries, including China; special provisions in 1958 for refugees from Hungary, and for persons affected by flood and earthquake in the Netherlands and the Azores.

In 1965 the Congress abolished the national-origin quota system when it passed Public Law 89-236. The new immigration law established a numerical quota of 20,000 per year from any single foreign state, subject to a system of "preference categories" which favors relatives of persons already in the United States, professional persons or those with exceptional ability, skilled workers whose skill is considered to be in short supply, and refugees. Each category has a percentage limitation. Workers outside the preference categories are required to show a certificate from the Department of Labor to state that their entry will not adversely affect employment conditions in the United States. The General Information pamphlet from the Immigration and Naturalization Service states:

Refugee Travel Documents

. . . an alien lawfully present in the United States who is a refugee because of well-founded fear of persecution by reason of race, religion, nationality, memberhsip of a particular social group or political opinion may apply on Form I-570 to the Service for the issuance of a Refugee Travel Document . . .

Labor Certifications

By virtue of the amendment of October 3, 1965, responsibility is placed upon the intending immigrant to obtain the Secretary of Labor's clearance establishing that (a) there are not sufficient workers in the United States at the place to which he is destined who are able, willing, and qualified to perform the skilled or unskilled labor he is to do, and (b) his employment will not adversely affect wages and working conditions of workers in the United States similarly employed. Such "labor certification" must be obtained before a visa may be issued to a nonpreference immigrant, to a third or sixth preference immigrant, or to a Western Hemisphere "special immigrant" (other than the parents, spouse and children of a U.S. citizen or alien resident).[16]

Immigration from Asia had been the first to be restricted. The Chinese Exclusion Act of 1882 had prohibited immigration of any Chinese except teachers and other professionals, merchants, and travelers. In the "Act to provide a government for the Territory of Hawaii" there was a provision that ". . . no Chinese laborer, whether he shall hold a certificate or not, shall be allowed to enter any State, Territory, or District of the United States from the Hawaiian Islands."

When pressure was put on the federal government to exclude Japanese from the United States, Japan was offended and talked of war. Unwilling to insult Japan, which was in a much stronger international position than China, President Theodore Roosevelt negotiated a face-saving, so called "Gentleman's Agreement," whereby the Japanese agreed not to issue passports for laborers to emigrate. A description of the agreement is found in the Report of the Commissioner-General of Immigration, whose commission was also first created in 1907:

> In order that the best results might follow from an enforcement of the regulations, an understanding was reached with Japan that the existing policy of discouraging emigration of its subjects of the laboring classes to continental United States should be continued, and should, by co-operation with the governments, be made as effective as possible. This understanding contemplates the Japanese government shall issue passports to continental United States only to such of its subjects as are non-laborers or are laborers who, in coming to the continent, seek to resume a formerly acquired domicile, to join a parent, wife, or children residing there, or to assume active control of an already possessed interest in a farming enterprise in this country, so that the three classes of laborers entitled to receive passports have come to be designated "former residents," "parents, wives, or children of residents," and "settled agriculturists."[17]

The Immigration Act of 1924 placed Asian nations within a new quota system which allowed China, Japan, India, or any other Asian nation, one hundred immigrants each, per year. There were other restrictions, which are discussed in the Civil Rights section of this chapter. Changes in the restriction and the 1965 amendment to the Act are also detailed elsewhere.

Immigration from Mexico has been affected by geographical circumstance. The boundary line between Mexico and the United States is comparatively recent, and Mexicans crossing it are traveling into a region that traditionally was part of their ancestral territory, the legendary homeland of the Aztec people known as "Aztlan." In the twentieth century it became an active border for both political and economic reasons. The United States' immigration policy had closed off the supply of cheap labor from Asia. Mexican nationals were also driven by unsettled political and economic conditions in their own country, especially after the revolution of 1910. Following is an autobiographical account by an immigrant during the time of the revolutions, collected by the distinguished Mexican anthropologist, Dr. Manuel Gamio:

> . . . The Villistas pressed me into the service then, and took me with them as a soldier. But I didn't like that, because I never liked to go about fighting, especially about things that don't make any difference to one. So when we got to Torreon I ran away just as soon as I could. That was about 1915.
>
> I went from there to Ciudad Juarez and from there to El Paso. There I put myself under contract to go to work on the tracks. I stayed in that work in various camps until I reached California. I was for a while in Los Angeles working in cement work, which is very hard. From there I went to Kansas, and I was also in Oklahoma and in Texas, always working on the railroads. But the climate in those states didn't agree with me, so I beat it for Arizona. Some friends told me that I could find a good job here in Miami. I have worked in the mines here, in the King, the Superior and the Globe. In all of them it is more or less alike for the Mexicans. Here in the Miami mine I learned to work the drills and all the mining machinery and I know how to do everything. The work is very heavy, but what is good is that one lives in peace. There is no trouble with revolutions nor difficulties of any kind. Here one is treated according to the way in which one behaves himself and one earns more than in Mexico.[18]

Mexican immigrants filled an essential role in the mines, on the railroads, and in the fields of agriculture, but they were often subject to discrimination and exploitation. American employers needed them, whether legally or illegally entered. Labor smugglers found them a lucrative source of income. The *mojados*, or "wetbacks" were sometimes "sold" to one employer and snatched away and "sold" to another. When work was slack, as during the Depression, the *mojados*, *braceros*, and even American-born Mexicans were deported, or effectively pressured to leave. In 1933 Carey McWilliams wrote, "Thousands have departed of their own volition. In battered Fords, carrying two and three families and all their worldly possessions, they are drifting back to *el terenaso* — the big land. They have been shunted back and forth across the border for so many years by war, revolution, and the law of supply and demand, that it would seem that neither expatriation or repatriation hold any more terror for them. The Los Angeles industrialists confidently predicted that the Mexican 'can be lured back, whenever we need him.'"[19]

With intermittent success, American agribusiness interests appealed to United States government agencies to support legislation that provided for recruitment of temporary contract labor. During the Korean War they succeeded. The law which came to be known as "Public Law 78" had the effect of making the Department of labor the labor contractor, with authority to recruit Mexican laborers. One of the provisions specified that:

> Section 502. No workers shall be made available under this title to any employer unless such employer enters into an agreement with the United States to indemnify the U.S. for essential expenses . . . in amounts not to exceed $15 per worker . . .
>
> Section 503. No workers recruited under this title shall be available for employment in any area unless the Secretary of Labor has determined and certified that
>
> 1. Sufficient domestic workers who are able, willing and qualified are not available at the time or place needed . . .
>
> 2. The employment of such workers will not adversely affect the wages and working conditions of domestic agricultural workers similarly employed, and
>
> 3. Reasonable efforts have been made to attract domestic workers for such employment at wages and standard hours of work comparable to those offered foreign workers.[20]

In one year as many as 430,000 imported laborers, known as *braceros* entered the United States under the provisions of this law. In addition, the number of *mojados* or "wetbacks" was not lessened, because laborers could save as much as $40 by entering the country unofficially. Resident Mexican Americans were affected by the arrival of immigrant contract labor to the point that many of them migrated to northern and eastern parts of the United States to find work. It was Section 503 of the law that became the focal point of the controversy over its renewal each two years. American labor unions claimed that the importation of the contract labor workers had the effect of depressing wages and employment for domestic labor. Other groups fought the renewal of the law for humanitarian reasons, citing the exploitation and discrimination that Mexican nationals endured. It was finally defeated in 1964.

Under the provisions of the immigration laws of 1965, Mexican nationals come under the category of "Special Immigrants," which have the following regulations:

> **Immigrants** . . . may be admitted without numerical limitation, except
>
> **Special Immigrants**, except those included in "A" below, may be admitted without numerical limitation. The entry of those in "A", unless they can qualify as "immediate relatives," is restricted to an overall total of 120,000 for any fiscal year, without any individual country limitations or preferences within the total. The following are the classes of "special immigrants":
>
> (A) an immigrant who was born in any independent foreign country of the Western Hemisphere or in the Canal Zone and his spouse and unmarried minor children if accompanying or following to join him.
>
> The following nonimmigrants, among others, are not required to present passports or visas:
>
> . . . (B) A Mexican national in possession of a border crossing card on Form I-186 applying for admission as a temporary visitor for business or pleasure from contiguous territory . . .
>
> **Entry Documents**
>
> . . . Nonresident Alien Mexican Border Crossing Cards. These cards are issued by the Service and also by certain U.S. consulates in Mexico to citizens of Mexico resident in that country who wish to enter the United States as visitors for business or pleasure. . .[21]

3. HOW SHOULD THE UNITED STATES BEST PROMOTE AND PROTECT ITS INTERNATIONAL INTERESTS?

Overseas expansion followed the occupation of the frontiers within the continent. The westward momentum was not spent. In the Spanish American War the United States added the territories of the Philippines and Puerto Rico, as well as assuring the nation of a base in Cuba and dominance in the Caribbean. Hawaii was annexed under debatable circumstances, and the Americans supported a revolution in Panama in order to acquire the rights to build a canal there. Some Americans viewed the expansion as an extension of "Manifest Destiny." When Admiral Dewey's victory at Manila Bay was reported, a newspaper editor quipped:

O Dewey was the morning
  Upon the first of May,
And Dewey was the Admiral
  Down in Manila Bay;
And Dewey were the Regent's eyes
  "Them" orbs of royal blue!
And Dewey feel discouraged?
  I Dew not think we Dew.[22]

Senator Albert J. Beveridge described "The March of the Flag" in glowing terms while speaking in favor of keeping the Philippine Islands. Portions are quoted:

> Our God has planted on this soil a mighty people. He has given a glorious history to His chosen people. This history has been made heroic by our faith in our mission and our future. It is the history of soldiers who carried the flag across blazing deserts and through hostile mountains, a history of a people who overran a continent.
>
> Those who do not want the United States to annex foreign lands tell us that we ought not to govern a people without their consent. I answer, "That rule of government applies only to those people who are capable of self-government." We govern the Indians without their consent. We govern our children without their consent.
>
> We are just doing what our fathers did. We are just pitching the tents of liberty farther westward, farther southward, We are just continuing the march of the flag!
>
> The march of the flag! In 1789 the flag of the Republic waved over 4 million souls in 13 states, plus territory which stretched to the Mississippi. The timid people of that day said that no new

> territory was needed, and, at that time, they were right. But Jefferson bought Louisiana, which swept from the Mississippi to the mountains. The march of the flag began!
>
> Then Texas answered the bugle calls of liberty, and the march of the flag went on! And at last, we went to war with Mexico and the flag swept over the southwest, over California, past the Golden Gate to Oregon on the north.
>
> An now, our President today plants the flag over the islands of the seas, which will be our outposts of commerce, our fortresses of national security. The march of the flag goes on!
>
> Today, we are raising more crops than we can eat and making more than we can use. Therefore, we must find new markets for our products. And so, while we did not need the territory taken during the past century at the time we got it, we do need what we have taken in [the Spanish-American War of] 1898, and we need it now.
>
> There are so many important things to be done — canals to be dug, railways to be laid, forests to be cut, cities to be built, fields to be farmed, markets to be won, ships to be launched, peoples to be saved, civilizations to be proclaimed.
>
> Wonderfully, God has guided us. We cannot retreat from any soil where He has unfurled our flag. It is our duty to save that soil for liberty and civilization.[23]

The American Anti-Imperialistic League, formed in 1899, denounced overseas expansion and the policy of suppressing the Filipino patriots and their young leader, Emilio Aguipaldo. It was paradoxical that American forces were doing the very thing in the Philippines they had gone to Cuba to stop. When the issue of taking possession of the Philippines was debated in Congress, opposition to imperialistic expansion was spear-headed by Senator George Hoar of Massachusetts, whose speech included the following paragraphs:

> My proposition, summed up in a nutshell, is this: I admit you have the right to acquire territory for constitutional purposes, and you may hold land and govern men on it for the constitutional purpose of admitting it as a state. I deny the right to hold land or acquire any property for any purpose not contemplated by the Constitution. The government of foreign people against their will is not a constitutional purpose but a purpose expressly forbidden by the Constitution. Therefore I deny the right to acquire this territory and to hold it by the government for that purpose. . .
>
> Now, I claim that under the Declaration of Independence you cannot govern a foreign territory, a foreign people, another people than your own; that you cannot subjugate them and govern them against their will, because you think it is for their good, when they do not; because you think you are going to give them the blessings of liberty. You have no right at the cannon's mouth to impose on an unwilling people your Declaration of Independence and your Constitution and your notions of freedom and notions of what is good.[24]

In two world wars the nation's participation followed parallel stages, from avowed neutrality, to economic assistance, and finally to declaration of war.

In 1914 when World War I broke out in Europe, Woodrow Wilson appealed to the nation to be "impartial in thought as well as in action." "The United States," he said, "must be neutral in fact as well as in name during these days that are to try men's souls."[25] A generation later, in 1937, Franklin Roosevelt signed a Neutrality Act which made it unlawful "to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to any belligerent state. . ."[26]

In World War I America sold war materials and made loans to the Allied Powers. Similarly, in World War II, by 1941 America's neutrality had changed to economic assistance to Britain and her Allies. Roosevelt's well known speech calling on the nation to be an "arsenal for democracy" also contained the following famous lines:

> In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms.
>
> The first is freedom of speech and expression everywhere in the world.
>
> The second is freedom of every person to worship God in his own way everywhere in the world.
>
> The third is freedom from want, which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants everywhere in the world.
>
> The fourth is freedom from fear — which, translated into world terms, means economic understandings which will secure to every nation a worldwide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of

> physical aggression against any neighbor — anywhere in the world.
>
> That is no vision of a distant millenium. It is a definite basis for a kind of world attainable in our own time and generation. . .[27]

Before World War I Senator George Norris of Nebraska had opposed U.S. entry, and called pro-war policies the "Wall Street View." In the second war "America First" isolationists were represented by Senator Burton K. Wheeler of Montana, whose speech against Lend-Lease assistance to Britain included the following:

> The lend-lease-give program is the New Deal's triple-A foreign policy; it will plow under every fourth American boy.
>
> Never before have the American people been asked or compelled to give so bounteously and so completely of their tax dollars to any foreign nation. Never before has the Congress of the United States been asked by any President to violate international law. Never before has this nation resorted to duplicity in the conduct of its foreign affairs. Never before has the United States given to one man the power to strip this nation of its defenses. Never before has a Congress coldly and flatly been asked to abdicate.
>
> If the American people want a dictatorship — if they want a totalitarian form of government and if they want war — this bill should be steam-rollered through Congress, as is the wont of President Roosevelt.
>
> Approval of this legislation means war, open and complete warfare. I, therefore, ask the American people before they supinely accept it — Was the last World War worthwhile?[28]

In 1917 Woodrow Wilson went before Congress with his reasons for declaring war on Germany:

> . . . Neutrality is no longer feasible or desirable where the peace of the world is involved and the freedom of its peoples. . .We have no quarrel with the German people. We have no feeling toward them but one of sympathy and friendship. It was not upon their impulse that their government acted in entering this war. . .
>
> The world must be made safe for democracy. Its peace must be planted upon the tested foundations of political liberty. We have no selfish ends to serve. We desire no conquest, no dominion. We seek no indemnities for ourselves, no material compensation for the sacrifices we shall freely make. We are but one of the champions of the rights of mankind. We shall be satisfied when those rights have been made as secure as the faith and the freedom of nations can make them. . .[29]

During the House debate over the resolution to enter the war, America's first woman member of Congress, Jeannette Rankin of Montana, broke more than one precedent during the roll call vote when she said, "I want to stand by my country, but I cannot vote for war. I vote no." But she was far outnumbered. The tally was 374 for declaring war, 50 against, and 9 abstaining. In 1941 Miss Rankin was again representing her state in the House, and again a resolution for declaring war was being considered. It was the day after Pearl Harbor. Miss Rankin could not get the Speaker of the House to recognize her. Between the two wars she had worked tirelessly for peace and her views were well known. Shouts from the benches advised her to sit down. When the roll call vote was taken she replied, "As a woman I can't go to war, and I refuse to send anyone else." The vote was 388 to 1. To get away from an angry crowd Miss Rankin had first to take refuge in a phone booth, and then to lock herself into her office. Seventeen years later, John F. Kennedy wrote of her as "one of the most fearless characters in American history."

During the two World Wars there were also parallel developments on the home fronts in the area of human rights for minorities. Both wars made possible an increasing mobility, opportunity for employment and exposure to the larger society, especially for blacks. Both wars created new demands for justice and equality. The idealism expressed in the rhetoric of war propaganda provided occasion both for hope and cynicism. In 1917, when lynchings were still common, the NAACP sponsored a silent protest parade on Fifth Avenue in New York City, in which some of the banners read, "Mr. President, why not make America safe for Democracy?" Nevertheless, at the cost of criticism for some black spokesmen, Dr. W. E. B. DuBois wrote an editorial in the *Crisis* under the title, "Close Ranks":

> Let us not hesitate. Let us, while this war lasts, forget our special grievances and close our ranks shoulder to shoulder with our fellow citizens and allied nations that are fighting for democracy. We make no ordinary sacrifice, but we make it gladly, willingly, with our eyes lifted to the hills. . .[30]

During the second world war, with American blacks still serving in segregated units, and Japanese-American citizens herded behind barbed wire in Idaho and Montana, black labor leader A. Philip Randolph put pressure on Franklin Roosevelt to do something about democracy at home. Specifically he asked that blacks have equal opportunity to work in war industries. He told Roosevelt that a massive march was planned to protest in Washington D.C., which he justified in the following words:

> Though I have found no Negroes who want to see the United Nations lose this war, I have found many who, before the war ends, want to see the stuffing knocked out of white supremacy and of empire over subject peoples. American Negroes, involved as we are in the general issues of the conflict, are confronted not with a choice but with the challenge both to win democracy for ourselves at home and to help win the war for democracy the world over.
>
> There is no escape from the horns of this dilemma. There ought not to be escape. For if the war for democracy is not won abroad, the fight for democracy cannot be won at home. If this war cannot be won for the white peoples, it will not be won for the darker races.
>
> Conversely, if freedom and equality are not vouchsafed the peoples of color, the war for democracy will not be won. Unless this double-barreled thesis is accepted and applied, the darker races will never wholeheartedly fight for the victory of the United Nations. . .
>
> By fighting for their rights now, American Negroes are helping to make America a moral and spiritual arsenal of democracy. Their fight against the poll tax, against lynch law, segregation, and Jim Crow, their fight for economic, political, and social equality thus becomes part of the global war for freedom.[31]

Roosevelt responded to Randolph's threat with Executive Order No. 8802, and the protest march was called off. The order included the following:

> Whereas it is the policy of the United States to encourage full participation in the national defense program by all citizens of the United States, regardless of race, creed, color, or national origin, in the firm belief that the democratic way of life withing the nation can be defended successfully only with the help and support of all groups within its borders. . .
>
> And it is hereby ordered as follows:
>
> 1. All departments and agencies of the government of the United States concerned with vocational and training programs for defense production shall take special measures appropriate to assure that such programs are administered without discrimination because of race, creed, color, or national origin.
>
> 2. All contracting agencies of the government of the United States shall include in all defense contracts hereafter negotiated by them a provision obligating the contractor not to discriminate against any worker because of race, creed, color, or national origin. . .[32]

Foreign Policy in a Bi-Polar World has witnessed several approaches:

(a) *Sponsorship of the United Nations.* The United States did not join the League of Nations after World War I, but following World War II was a sponsor of the league of victorious states called the United Nations. The Preamble to the Charter of the United Nations expressed the hopes of many Americans that the new organization would be able to prevent a recurrence of the devastating war just ended:

> **We the Peoples of the United Nations Determined**
>
> to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and
>
> to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and
>
> to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and
>
> to promote social progress and better standards of life in larger freedom,
>
> **And For These Ends**
>
> to practice tolerance and live together in peace with one another as good neighbors, and
>
> to unite our strength to maintain international peace and security, and
>
> to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and
>
> to employ international machinery for the promotion of the economic and social advancement of all peoples,
>
> **Have Resolved to Combine Our Efforts to Accomplish These Aims**
>
> Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.[33]

(b) *Recognition of Soviet Confrontation.* Although both the United States and the Soviet Union were members of the United Nations, their wartime alliance changed to a relationship of growing distrust and competition for spheres of influence. Prime Minister Winston Churchill called for Anglo-American unity in the face of a developing rift between East and West, and described the barrier between them as an "iron curtain." During a speech at Fulton, Missouri in 1946, he made the following observations:

> A shadow has fallen upon the scenes so lately lighted by the Allied victory. Nobody knows what Soviet Russia and its Communist international organization intends to do in the immediate future, or what are the limits, if any, to their expansive and proselytizing tendencies. . .
>
> We understand the Russians need to be secure on her western frontiers from all renewal of German aggression. We welcome her to her rightful place among the leading nations of the world. Above all we welcome constant, frequent and growing contacts between the Russian people and our own people on both sides of the Atlantic. It is my duty, however, to place before you certain facts about the present position in Europe -- I am sure I do not wish to, but it is my duty, I feel, to present them to you.
>
> From Stettin in the Baltic to Trieste in the Adriatic, an iron curtain has descended across the Continent. Behind that line lie all the capitals of the ancient states of central and eastern Europe. Warsaw, Berlin, Prague, Vienna, Budapest, Belgrade, Bucharest, and Sofia, all these famous cities and the populations around them lie in the Soviet sphere and all are subject in one form or another, not only to Soviet influence but to a very high and increasing measure of control from Moscow. . .[34]

(c) *The Truman Doctrine of "Containment."* This was announced on April 12, 1947, when President Harry Truman asked the Congress to authorize $400,000,000. for economic aid to Greece and Turkey, to help those countries maintain independence from Communist pressure. Portions follow:

> . . . I believe that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures.
>
> I believe that we must assist free peoples to work out their own destinies in their own way.
>
> I believe that our help should be primarily through economic and financial aid, which is essential to economic stability and orderly political processes.
>
> The world is not static and the status quo is not sacred. But we cannot allow changes in the status quo in violation of the Charter of the United Nations by such methods as coercion, or by such subterfuges as political infiltration. In helping free and independent nations to maintain their freedom, the United States will be giving effect to the principles of the Charter of the United Nations.[35]

(d) *The Marshall Plan.* This enabled the war-devastated countries of Europe to work out plans for economic recovery with aid from the United States. By 1951 the Marshall Plan countries had raised their industrial output above their 1938 levels, and their Communist parties had been rendered impotent. The classic statement of the plan was given by Secretary of State George C. Marshall at a Harvard Commencement, and included the following:

> . . . The truth of the matter is that Europe's requirements for the next 3 or 4 years of foreign food and other essential products — principally from America -- are so much greater than her present ability to pay that she must have substantial additional help, or face economic, social, and political deterioration of a very grave character. . .
>
> Our policy is directed not against hunger, poverty, desperation, and chaos. Its purpose should be the revival of a working economy in the world so as to permit the emergence of political and social conditions in which free institutions can exist. Such assistance, I am convinced, must not be on a piecemeal basis as various crises develop. Any assistance that this Government may render in the future should provide a cure rather than a mere palliative. Any government that is willing to assist in the task of recovery will find full cooperation, I am sure, on the part of the United States Government. Any government which maneuvers to block the recovery of other countries cannot expect help from us. Furthermore, governments, political parties, or groups which seek to perpetuate human misery in order to profit therefrom politically or otherwise encounter the opposition of the United States.[36]

(e) *United Nations "Police Action" in Korea.* This involved U.S. military forces in what was called a "limited war." In 1950 the Security Council of the United Nations voted to intervene in Korea on behalf of South Korea against the aggression of Communist-dominated forces from North Korea. The Soviet Union had been absent from the Council, and so had not cast a veto vote. The question has been raised whether the Korean conflict was in reality an American-Russian fight, under the rationalization of a Security Council decision. Following is part of President Truman's statement of policy regarding American participation:

> In Korea, the government forces, which were armed to prevent border raids and to preserve internal security, were attacked by invading forces from North Korea. The Security Council of the United Nations called upon the invading troops to cease hostilities and to withdraw to the 38th parallel. This they have not done, but on the contrary, have pressed the attack. The Security Council called upon all members of the United Nations to render every assistance to the United Nations in the execution of this resolution. In these circumstances, I have ordered United States air and sea forces to give the Korean government troops cover and support.
>
> The attack upon Korea makes it plain beyond all doubt that Communism has passed beyond the use of subversion to conquer independent nations and will now use armed invasion and war. It has defied the orders of the Security Council of the United Nations issued to preserve international peace and security. . .
>
> I know that all members of the United Nations will consider carefully the consequences of this latest aggression in Korea in defiance of the Charter of the United Nations. A return to the rule of force in international affairs would have far-reaching effects. The United States will continue to uphold the rule of law.[37]

"Limited War," as exemplified in the Korean conflict, was the wrong policy in the opinion of General McArthur, who wanted approval for bombing Manchurian bases. "War's very object is victory — not prolonged indecision," he said, adding, "In war, indeed, there can be no substitute for victory,"[38] during an address to the joint session of Congress. General Omar Bradley countered:

> . . . Under present circumstances, we have recommended against enlarging the war. The course of action often described as a "limited war" with Red China would increase the risk we are taking by engaging too much of our power in an area that is not the critical strategic prize.
>
> Red China is not the powerful nation seeking to dominate the world. Frankly, in the opinion of the Joint Chiefs of Staff, this strategy would involve us in the wrong war, at the wrong place, at the wrong time, and with the wrong enemy.[39]

(f) *The U.S. Central Intelligence Agency.* Assistance to anti-government factions in countries whose regimes are opposed to the United States has been provided by the United States Central Intelligence Agency. For example, the CIA helped to train the Cubans who unsuccessfully attempted to overthrow Fidel Castro's Communist regime in 1961. When the United States was accused of intervention and aggression in the U.N. General Assembly Ambassador Adlai Stevenson replied to the charges:

> . . . I have heard a torrent — a deluge — of ugly words from Communist speakers here accusing the United States of aggression and invasion against Cuba. I will resist the temptation to invite attention to the record of aggression of the countries represented by some of those speakers — or to inquire as to which country has *really* intervened in Cuba, which country has perverted the Cuban revolution, and why these same speakers are so emotional about the revolt of the Cuban refutees against the new tyranny in Cuba and the new imperialism in the world. . .[40]

(g) *The Vietnam War.* The commitment of United States military forces in Vietnam was one of America's most controversial wars. Senator Thomas J. Dodd summarized the official U.S. position during a Senate speech, February 23, 1965:

> To me the reasons for our presence in Vietnam are so crystal clear that I find it difficult to comprehend the confusion which now appears to exist on this subject.
>
> We are in Vietnam because our own security and the security of the entire free world demand that a firm line be drawn against further advances of Communist imperialism — in Asia, in Africa, in Latin America, and in Europe.
>
> We are in Vietnam because it is our national interest to assist every nation, large and small, which is seeking to defend itself against Communist subversion, infiltration, and aggression. There is nothing new about this policy; it is a policy, in fact, to which every administration has adhered since the proclamation of the Truman Doctrine.
>
> We are in Vietnam because our assistance was invited by the legitimate government of that country.
>
> We are in Vietnam because, as the distinguished majority leader, the Senator from Montana (Mr. Mansfield), pointed out in his 1963 report, Chinese Communist hostility to the United States 'threatens the whole structure of our own security in the Pacific.'
>
> We are in Vietnam not merely to help the fourteen million South Vietnamese defend themselves against communism, but because what is at stake is the independence and freedom of 240 million people in Southeast Asia and the future of freedom throughout the western Pacific.

> These are the reasons why we are in Vietnam. There is nothing new about them and nothing very complex. They have never been concealed. I cannot, for the life of me, see why people fail to understand them.[41]

On April 4, 1967, Dr. Martin Luther King spoke out in protest against American participation in Vietnam. His appeal, from which one short selection is given below, cost him many supporters for the civil rights cause:

> . . . Somehow this madness must cease. I speak as a child of God and brother to the suffering poor of Vietnam and the poor of America who are paying the double price of smashed hopes at home and death and corruption in Vietnam. I speak as a citizen of the world, for the world as it stands aghast at the path we have taken. I speak as an American to the leaders of my own nation. The great initiative in this war is ours. The initiative to stop must be ours. . .[42]

Recognition of a "Third World" is still another effort of the United States to secure her international interests. Anticipation of a period of "detente" can be seen in John F. Kennedy's speech in support of the nuclear test-ban treaty, at American University in 1963. Americans were warned "not to fall in the same trap as the Soviets, not to see only a distorted and desperate view of the other side, not to see conflict as inevitable." He said that both countries had "a mutually deep interest in a just and genuine peace and in halting the arms race. . . If we cannot end now all our differences, at least we can help make the world safe for diversity. . ." Further, he stated,

> No one who examines the modern world can doubt that the great currents of history are carrying the world away from the monolithic toward the pluralist idea — away from communism and toward national independence and freedom. . . No one can doubt that the wave of the future is not the conquest of the world by a single dogmatic creed but the liberation of the diverse energies of free nations and free men. . .[43]

In the years since Kennedy's prediction, events have confirmed his opinion. Membership in the United Nations has increased to include many more members in the uncommitted "Third World" voting group; the Communist world has tended to become "polycentric"; relations have opened again between the United States and the People's Republic of China; the Middle Eastern oil-selling nations possess a strategic bargaining power that Western Nations cannot afford to ignore; and several nations now possess nuclear arms. Keeping the world "safe for diversity" has required a change in American foreign policy, which may be exemplified in these excerpts from a speech by Henry Kissinger in Africa, in the spring of 1976:

> The Salisbury regime must undertand that it cannot expect United States support either in diplomacy or in material help at any stage in its conflict with African states or African liberation movements. On the contrary, it will face our unrelenting opposition until a negotiated settlement is achieved. . .
>
> The United States . . . is ready to help alleviate economic hardship for any countries neighboring Rhodesia which decide to enforce sanctions by closing their frontiers. . . We will urge the Congress to repeal the Byrd amendment. . .
>
> The United States. . . is willing to provide 12.5 million dollars of assistance.
>
> We state our conviction that whites as well as blacks should have a secure future and civil rights in a Zimbabwe that has achieved racial justice. . .
>
> The United States is wholly committed to help bring about a rapid, just and African solution to the issue of Rhodesia.[44]

4. WHAT ARE THE CIVIL AND HUMAN RIGHTS OF PEOPLE IN THE UNITED STATES, AND HOW SHOULD THE NATION UPHOLD THEM?

Policy Statements and Basic Laws provide guidance for this issue.

The *Declaration of Independence* made a statement of civil and human rights which, although it had not been translated into law, became an inspiration and guide to subsequent law-making:

> . . . We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. . .*

The Constitution of the United States was instituted by the official consent of white, male, adult property owners, who did not give their consent until it included the Bill of Rights expressed in the first ten amendments. The First Amendment forbids Congress to pass laws restricting freedom of speech, of the press, of peaceful assembly, or of petition. It also forbids Congress to establish a state religion or to prohibit the free exercise of religion. The Fifth Amendment forbids the government from depriving a person of life, liberty or property without due process of law.

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*See original documents for this and following references.

The Fourteenth Amendment extended the rights of citizenship to "all persons born or naturalized in the United States. . ." and further stipulated that

> . . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This amendment became the basis of much of the Civil Rights legislation of the 1960's.

The Nineteenth Amendment, effective in 1920, at long last granted nation-wide suffrage to women:

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

The Twenty-Sixth Amendment lowered the voting age to eighteen:

> The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

The proposed Equal Rights Amendment provides an even more specific guarantee of equal rights for women:

> Equality of Rights under the law shall not be denied or abridged in the United States or by any State on account of sex.

The Universal Declaration of Human Rights, of which the United States is party, claims in its opening paragraphs to be "a common standard of achievement for all peoples and all nations. . ." which nations should seek to attain. Article 2 from *the Declaration of Human Rights* applies its provisions to all peoples, without any kind of distinction:

> Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.
>
> Furthermore, no distinction shall be made on the basis of the political, jurisdictional, or international status of the country or territory to which a person belongs, whether it be an independent, trust, or non-self-governing territory or under any limitation of sovereignty.

The Declaration of the Rights of a Child, adopted in 1959 by the UN General Assembly, affirms that mankind owes to the child the "best that it has to offer," and names securities, status, education, nutrition and housing, protection from abuse and exploitation, among the rights of children everywhere.

Although the UN declarations do not have binding means of enforcement, they hold up an ideal by which the practices of society may be evaluated.

Implementation of these basic principles has been effected in several ways.

Special legislation in order to implement the rights guaranteed by the constitution, especially in the cases of minority groups. The Civil Rights Law of 1957 created a Civil Rights Commission, which was charged with the responsibility to:

> 1. Investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion or national origin; which writing under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based. . .
>
> 2. Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution; and
>
> 3. Appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution. . .[8]

The Civil Rights Law of 1957 also established a Civil Rights Division in the Department of Justice.

The Civil Rights Law of 1964 banned discrimination on the basis of race, color, religion, or national origin, in places of public accomodation, employment, and any program or activity that used federal funds. It established an Equal Employment Opportunity Commission to enforce employment practices. It provided for a cutoff of federal funds for violations.

The Civil Rights Law of 1965 did away with discriminatory literacy tests and made interference with voters a crime. The Twenty-Fourth Amendment had already abolished the poll tax in 1964.

The Civil Rights Laws were the direct result of the Civil Rights Movement led by Dr. Martin Luther King, Jr. and his associates, who had demonstrated at great risk their insistence that protections of the Bill of Rights ought to be enjoyed by all races. In his radio speech supporting the Civil Rights Law of 1965 President Lyndon Johnson said:

> The real hero of this struggle is the American Negro. His actions, and protests, his courage to risk safety and even to risk his life, have awakened the conscience of this nation. His demonstrations have been designed to provoke change, designed to stir reform. He has called upon us to make good the promise of America. And who among us can say that we would have made the same progress were it not for his persistent bravery, and his faith in American democracy. . .[46]

The right to a clean environment has been supported by legislative action.

The National Environmental Policy Act of 1969 (Public Law 91-190) was enacted to declare a national policy governing the use or abuse of the natural resources, but a question exists whether the NEPA created a constitutional right to a decent environment. The original bill had contained language that clearly stated that "The Congress recognizes that each person has a fundamental and inalienable right to a healthful environment. . ." but it was changed in conference committee, to the following:

> The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment . . .[47]

However, some constitutional underpinning for a right to a decent environment may be provided in the due process clause and other protective clauses of the Fifth and Fourteenth Amendments.

The NEPA is not only a statement of national policy, but also has enforcement provisions:

> The Act establishes a national policy requiring all federal agencies to give full consideration to environmental effects in planning and carrying out their programs. To ensure that the agencies implement this policy, NEPA prescribes specific "action-forcing" procedures which the agencies must observe. One particular action-forcing procedure does most of the work of the Act. In No. 102(2)(c), Congress required each federal agency to prepare a detailed statement of environmental impact on every major federal action that might significantly affect environmental quality. The statement must discuss alternatives to the proposed action and must be circulated for comment to other federal agencies, to state and local governments, and to the public.
>
> Specifically, No. 101(a) instructs the federal agencies to protect and restore the environment in accordance with a general national policy, declared by the Act, that the government shall endeavor "to create and maintain conditions under which man and nature can exist in productive harmony."[48]

Court decisions have confirmed the right of appropriate citizens and groups to sue to vindicate environmental interests.

Judicial Appeal has been used more than once to implement the rights promised under the Constitution and public laws. There have been many landmark decisions by the Supreme Court relating to the status of the rights of certain groups. In the Nineteenth Century the Dred Scott Decision and Plessy *vs.* Ferguson Decision had adversely affected the opportunities for blacks to gain equal treatment under law. One landmark case of the Twentieth Century was the *Brown vs. the Board of Education of Topeka Kansas*, which was the climax of several suits that related to equal protection of the law with respect to education. The lawyer for the *Brown* case, Thurgood Marshall, is now a Justice of the Supreme Court. (More details are given further in this chapter.)

Judicial appeal has clarified the rights of the accused, as in the *Miranda v. Arizona* case, 1966, in which it was decided that a suspected criminal must be informed of his rights before being questioned.

Executive Orders have also implemented the constitutional rights of individuals. Executive Order No. 11246 implemented the provisions of the Civil Rights Law of 1964, and Executive Order No. 11375 amended it to cover sex discrimination. All government employment and contractors doing government work, are required by order to have a non-discrimination clause in their contracts. Originally naming only "race, creed, color, or national origin," the Act was amended by Executive Order No. 11375, which began as follows:

> (1) Section 101 of Part I, concerning nondiscrimination in Government employment, is revised to read as follows:
>
> "Sec. 101. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all qualified persons, to prohibit discrimination in employment because of race, color, religion, sex or national origin,

and to promote the full realization of equal employment opportunity through a positive, continuing program in each executive department and agency. The policy of equal opportunity applies to every aspect of Federal employment policy and practice.

The Order does more than prohibit discrimination: it requires employers to take positive steps toward equalizing employment opportunities, as in the following:

> (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin.[49]

Failure to take "affirmative action" can result in legal action and loss of government contracts or funding.

Application of these principles to certain racial minorities illustrates the complexities and difficulties of implementing the basic principles. Special legislation has been required to define and support the rights of racial minorities, because of European racism and conflicting interests at the time of initial contact. The words of Chief Joseph could be used to summarize the plea of racial minorities in the United States:

> . . . We only ask an even chance to live as other men live. We ask to be recognized as men. We ask that the same law shall work alike on all men. If an Indian breaks the law, punish him by the law. If a white man breaks the law, punish him also.
>
> Let me be a free man — free to travel, free to stop, free to work, free to trade where I choose, free to choose my own teachers, free to follow the religion of my fathers, free to think and talk and act for myself — and I will obey every law or submit to the penalty.[50]

In this section the documents will show how "equal protection of the laws" has applied to the Indians, Afro-Americans, Mexican-Americans and Asian-Americans.

(a) *The rights of Indian people* include several categories.

On the question of *Indian sovereignty*, the *Handbook of Federal Indian Law* contains the following paragraphs related to the "Scope of Tribal Self Government":

> Perhaps the most basic principle of all Indian law, supported by a host of decisions hereinafter analyzed, is the principle that *those powers which are lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished.* Each Indian tribe begins its relationship with the Federal Government as a sovereign power, recognized as such in treaty and legislation. The powers of sovereignty have been limited from time to time by special treaties and laws designed to take from the Indian tribes control of matters which, in the judgment of Congress, these tribes could no longer be safely permitted to handle. The statutes of Congress, then, must be examined to determine its sources or its positive content. What is not expressly limited remains within the domain of tribal sovereignty.
>
> The acts of Congress which appear to limit the powers of an Indian tribe are not to be unduly extended by doubtful inference.
>
> That treaties with Indian tribes are of the same dignity as treaties with foreign nations is a view which has been repeatedly confirmed by the federal courts and never successfully challenged.[51]

Individualism vs. tribalism has been a major factor in the tribal relationship of Indians to the federal government and was sometimes threatened by certain acts and policies, such as the Dawes Act of 1889, which was aimed at changing land ownership from a communal system to an individual system. It was enacted during the same years when the United States was justifying its overseas expansion in the name of civilization. President Theodore Roosevelt advocated an Indian policy which would "break up the tribal mass," which was stated in part as follows:

> In my judgement the time has arrived when we should definitely make up our minds to recognize the Indian as an individual and not as a member of a tribe. The General Allotment Act is a mighty pulverizing engine to break up the tribal mass. It acts directly upon the family and the individual. Under its provisions some sixty thousand Indians have already become citizens of the United States. We should now break up the tribal funds, doing for them what allotment does for the tribal lands; that is, they should be divided into individual holdings. . .
>
> . . . The Indian should be treated as an individual — like the white man. During the change of treatment inevitable hardships will occur; every effort should be made to minimize these hardships; but we should not because of

> them hesitate to make the chage. There should be a continuous reduction in the number of agencies.[52]

During the period when Indians became citizens by accepting the Allotment Act, individual Indians went through a "Ritual of Admission," which emphasized a change in life style, and the relinquishment of their Indian names for white names. Part of the ritual consisted of shooting an arrow, after which the representative of the Indian Department said:

> You have shot your last arrow. That means that you are no longer to live the life of an Indian. You are from this day forward to live the life of a white man. But you may keep that arrow, . . . it will be to you a symbol of your noble race and of the pride you feel that you come from the first of all Americans. . . Take in your hand this plow. . . This act means that you have chosen to life the life of the white man — and the white man lives by work. . . .[53]

Making the Indian a citizen resulted in mixed feelings among the Indians. Senator Charles Curtis, (later vice-president in the Hoover administration), himself of Indian descent, was author of the Indian Citizenship Act of 1924. Declaring that Indians were citizens was regarded by some as an act of genocide, rather than the conferring of a privilege, because it tended to further deprive Indians of their tribal status. Following is the wording of this Act:

> Chap. 233 — An Act to authorize the Secretary of the Interior to issue certificates of citizenship to Indians.
>
> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all non-citizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States; Provided, That the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property.[54]

The Indian Reorganization Act of 1934 (Wheeler-Howard Act) attempted to restore self-government to the Indians. United States Indian policy, especially the Dawes Act, came under severe criticism in the Meriam Report of 1928, which pointed out the loss of land and erosion of Indian group responsibility that had been its consequence. Two significant pieces of legislation were passed in 1934. The first was the Johnson-O'Malley Act, which provided that the Secretary of the Interior through the Bureau of Indian Affairs, was authorized to contract with States and Territories for educational, health, and social services to Indians, the cost of which to be funded by the federal government. The second was the Wheeler-Howard Act, which superseded the Dawes Act, and restored a measure of self-government and recovery of land to Indian tribes. Tribes were authorized to incorporate and elect tribal government, subject to the rulings and approval of the Secretary of the Interior, who was given important veto powers. Although the Act had serious shortcomings, it was at least a beginning of a return to self-determination for Indians. Following are its main provisions:

> An act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes.
>
> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no land of any Indian reservation, created or set apart by treaty or agreement with the Indians, Act of Congress, Executive order, purchase, or otherwise, shall be alloted in severalty to any Indian.
>
> Sec. 2. The existing periods of trust placed upon any Indian lands and any restriction on alienation thereof are hereby extended and continued until otherwise directed by Congress.
>
> Sec. 3. The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public-land laws of the United States: Provided, however, That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: Provided further, That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation.[55]

There were many "provided further" clauses. Mineral rights, forestry, and regulation of stock grazing, were just three of the rights reserved to the Secretary of the Interior, through the Bureau of Indian Affairs. The BIA regulation of livestock led to the tragic Navajo stock reduction program during the 1930's. Following are excerpts from the *New York Times* in 1941:

> When the 1939 drought came along, the bitterest grumbling arose throughout the reservation, the Navajo crying that if the Indian

Bureau hadn't been in such a rush to cut down the number of goats and sheep, they would be eating them now. So Indian relief became more widespread, and the Navajo, unaccustomed to the mendicant philosophy of the New Deal, bitterly accepted the handouts, and returned to his hogan cursing the Indian Bureau. . .

"We have thirty sheep and fourteen goats," she told the trader who translated. "Once we have more than one hundred sheep alone. Then policeman come from Indian agency and read law and we must sell. We hide some, they shoot others. Then policeman come, read law for grazing permits. I am frightened. All around Indians work on tree planting, but soon stop. Then we get hungry. We try pick pinon nuts to sell, but policeman from agency come and read law and take them away.

"All around Indians are hungry and traders don't give credit any more. They know we have few sheep, few goats, no wool. Policeman read law and they can't sell. Indian agency bring food in cans, if not Indian must beg from white man who visits. Even my children now cough too much, not enough goat milk or goat meat. Indian agency has lots men on reservation now, but Indians have no work, no coffee, no flour, no meat. Next they take hogans and we live under pinon tree."[56]

A *new policy of Termination* was begun with the passage of *House Concurrent Resolution 108* in 1953. There is not complete agreement as to its meaning. It did specify that the special relationship between the tribe and the federal government involving privileges and services was terminated, and its former members would have the same rights and responsibilities as any other American citizens. It was promoted as a positive step toward complete freedom for Indians, since its advocates regarded the Indian Reorganization Act of 1934 as a delay in the long range goal of giving the Indians full control of their own affairs as individual citizens. Section X of the Act which terminated the Menominee Indians details some of the effect of the new status:

> Sec. 10. When title to the property of the tribe has been transferred as provided in section 8 of this Act, the Secretary shall publish in the Federal Register an appropriate proclamation of that fact. Thereafter members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens, or persons within their jurisdiction. Nothing in the Act shall affect the status of the members of the tribe as citizens of the United States.[57]

The effect of "termination" on the Menominee Indians of Wisconsin was such that the action was reversed in 1973. In the "Declaration of Indian Purpose" drawn up at a conference of Indians in 1961, one of the proposals was that the government should abandon "the so-called termination policy of the last administration by revoking House Concurrent Resolution 108 of the 83rd Congress."

Public Law 280, enacted in 1953 gave the states jurisdiction over offenses committed by or against Indians in Indian country. There have been many demands for the retrocession of this law because it tends further to erode tribal self-determination. In part, the law stated:

> Each of the States listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over offenses committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country as they have elsewhere within the State:[58]

The Civil Rights Act of 1968 applied the provisions of the Bill of Rights to Indians in their relation to tribal governments, and required Indian tribal consent for any further extension of state jurisdiction in Indian country. In addition, "Section 7 of the Act of August 15, 1953 (67 Stat. 588), is hereby repealed, but such repeal shall not affect any cession of jurisdiction made pursuant to such section prior to its appeal. . .[59]

(b) *The Rights of Mexican-Americans* have also been violated. Fulfillment of the guarantees of the Treaty of Guadalupe Hidalgo and equal treatment under law, are two primary concerns of Mexican American activists. Title VI of the Civil Rights Act of 1964 provides the legal basis for bi-lingual education, which is one of the treaty rights. Following are some of its provisions:

> 1. Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these situations. . .
>
> 3. Any ability grouping or tracking system

> employed by the school system to deal with the special language skill needs of national origin-minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational dead-end or permanent track. . .[60]

Among the demands of the Brown Berets, as published in the newspaper, *La Causa*, are the following:

> 1. Unity of our people regardless of age, income, religion or philosophy.
> 2. We demand the right of bilingual education as guaranteed by the Treaty of Guadalupe Hidalgo.
> 3. We demand the true history of the Chicano be taught in all schools of the five Southwestern States.
> 4. We demand a civilian police review board made up of the people who live in our community.
> 5. We demand that all police officers in the Chicano community must live in the community and speak the Spanish language. . .[61]

Defining the identity of a Chicano, Ysidro Ramon Macias says that:

> . . . the Chicanos are heirs to a great mixture of cultures, the Indian and Spanish; and added to this Mexican culture is the experience of living in an English-speaking country with its continuous attempt to erase their Mexican heritage. Out of this historical conflict has arisen our own unique mentality and language, different from both the Mexican and the American. Chicanos now accept these characteristics as positive and beautiful points instead of the previous relegation of them as inferior and vulgar forms of behavior and expression. Chicanos perceive that their culture must not be allowed to remain stagnant, and therefore throughout the greater Aztlan (Southwestern United States) he is [sic] daily expressing himself in his native tongue, Pocho, and seeking new and more effective ways of reviving, maintaining, and enriching his Chicano culture. Finally, no longer does the color of a Chicano's skin determine his status within his community. The lighter-skinned Mexican is not the favored son; quite the contrary, the darker Indian type is now exemplified along with other characteristics and customs derived from our Indian heritage.[62]

Cesar Chavez expressed the demand for economic justice in the following speech in support of the strike of the grape workers in San Joaquin Valley, California:

> We shall be heard. For too many years we have been treated as the lowest of the low. Our wages and working conditions have been determined from above, because irresponsible legislators who could have helped us have supported the Ranchers' argument that the plight of the Farm Worker was a "special case." They saw the obvious effects of an unjust system, starvation wages, contractors, day hauls, forced migration, sickness, illiteracy, camps and subhuman living conditions, and acted as if they were irremedial causes. We are tired of words, of betrayals, of indifference. To the politicians we say that the years are gone when the farm worker said nothing and did nothing to help himself. From this movement shall spring leaders who shall understand us, lead us, be faithful to us, and we shall elect them to represent us. We shall be heard. . .
>
> . . . Across the San Joaquin Valley, across California, across the entire Southwest of the United States, wherever there are Mexican people, wherever there are farm workers, our movement is spreading like flames across a dry plain. Our pilgrimage is the Match that will light our cause for all farm workers to see what is happening here, so that they may do as we have done. The time has come for the liberation of the poor farm worker. History is on our side. May the Strike go on! Viva la Huelga! Viva la Causa![63]

(c) *The Rights of Asian-Americans* have been closely related to immigration and naturalization laws, the labor market, and wartime alliances. In this section "Asian Americans" will refer primarily to persons of Chinese or Japanese descent, but with the understanding that the same legal situations generally applied also to persons from other East Asian countries.

The nation's first naturalization statute in 1790 provided that "free white persons" could be naturalized, and a federal district court ruled that this referred to persons of Caucasian race only. Thus, a precedent was set that excluded Asian immigrants from citizenship. The Constitution of California contained discriminatory laws applying to all "Mongolians," which, although later found to be in violation of the Fourteenth Amendment, still reflected the social climate for Asians. The Chinese Exclusion Act of 1882 specifically provided that "no state or court of the United States shall admit Chinese to citizenship."[64] After 1900 Chinese immigration to the Philippines and Hawaii was also governed by the Exclusion Act.

Although aliens are entitled to enjoy the protections of the Bill of Rights, apart from the right of citizens to vote, enforcement of immigration regulations gave occasion for unconstitutional aggression against Asians in America, as for example in Boston, in 1902. A national magazine reported it in part, as follows:

> At about half past seven o'clock on the evening of Sunday, October 11, 1902, a number of United States officials of Boston, New York, and other cities charged with the administration of the Chinese exclusion laws, assisted by force of the local police, made a sudden and unexpected descent upon the Chinese quarter of Boston. . .
>
> Every Chinese who did not at once produce his certificate of residence was taken in charge, and the unfortunate ones were rushed off to the Federal Building without further ceremony. There was no respect of persons with the officials; they treated merchants and laborers alike. In many cases no demand was made for certificates, the captives were dragged off for imprisonment, and in some instances the demand was not made till late at night or the next morning, when the certificates were in the possession of the victims at the time of the seizure. . .[65]

When the Immigration Act of 1924 specifically excluded aliens "ineligible for citizenship" it was no longer possible for American born Chinese to marry in China and bring their wives to the United States. At the same time several states had laws against Chinese intermarriage with whites. Although many Asians had trans-Pacific marriages, the basic human right to normal family life was restricted, and a "bachelor society" developed. The same law applied to Japanese and other Asians.

During World War II when the United States and China were allied against Japan, it was incongruous that Chinese people should be subject to the insulting provisions of the Immigration Act and the demeaning manner in which it was carried out. In 1943 there was a repeal:

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following Acts or parts of Acts relating to the exclusion or deportation of persons of the Chinese race are hereby repealed. . .[66]

There followed a detailed listing of all the previous exclusion states. A second provision allowed Chinese immigration under the quota system, which permitted 105 Chinese immigrants per year. The third section gave the right of naturalization to Chinese legally in the United States.

The War Brides Act of 1945, the Displaced Persons Act of 1948, the Refugee Act of 1953 and the Presidential Directive of 1962, each permitted Chinese immigration in addition to quota. Since 1965 a new law has permitted up to 20,000 a year, subject to a system of preferences. Both entry and citizenship are open to Asians of any origin.

The Japanese-American "Relocation" during World War II was an unfortunate episode in American history. In 1940 there were over 112,000 persons of Japanese ancestry in the three West Coast states, two-thirds of them American citizens. It was a difficult time to be a Japanese in the United States. Economic competition between America and Japan was aggravated by the Depression of the 1930's. In addition, American sympathies were with China in the aggression of Japan against mainland China. Newspapers and movies were tools of anti-Japanese agitation. In the midst of that atmosphere of public hostility, Mike Masaoka, secretary for the Japanese American Citizen's League, made the following statement:

> I am proud that I am an American citizen of Japanese ancestry, for my very background makes me appreciate more fully the wonderful advantages of this nation. I believe in her institutions, ideals, and traditions; I glory in her heritage; I boast of her history; I trust in her future. She has granted me liberties and opportunities such as no individual enjoys in this world today. She has given me an education befitting kings. She has permitted me to build a home, to earn a livelihood, to worship, think, speak, and act as I please — as a free man equal to every other man.
>
> Although some individuals may discriminate against me, I shall never become bitter or lose faith, for I know that such persons are not representative of the majority of the American people. True, I shall do all in my power to discourage such practices, but I shall do it in the American way — above board, in the open, through courts of law, by education, by proving myself to be worthy of equal treatment and consideration. I am firm in my belief that American sportsmanship and attitude of fair play will judge citizenship and patriotism on the basis of action and achievement, and not on the basis of physical characteristics.
>
> Because I believe in America, and I trust she believes in me, and because I have received innumerable benefits from her, I pledge myself to do honor to her at all times and all places; to support her Constitution; to obey her laws; to respect her flag; to defend her against all

> enemies, foreign and domestic; to actively assume my duties and obligations as a citizen, cheerfully and without any reservations whatsoever, in the hope that I may become a better American in a greater America.[67]

When Mike went to speak in North Platte, Nebraska, on December 7, 1941, he was placed in jail without formal charges. He was Japanese. Later, Mike was the first of all the Nisei to volunteer for active combat. Four of his brothers also joined the U.S. Army, while their mother was detained in the Manzanar Relocation Center.

After Pearl Harbor the President decided on the removal of Japanese ancestry from California, Oregon and Washington. The result, Executive Order No. 90066, authorized the military to take steps deemed "necessary and desirable" in the national defense. The order did not specifically name the Japanese, but it was applied to them indiscriminately, whether alien or citizen. In May, a national magazine article contained the following sentiments:

> If all the Japs were removed tomorrow, we'd never miss them. . . because the white farmer can take over and produce everything the Jap grows, and we don't want them back when the war ends either.[68]

By August, 1942, more than 110,000 West Coast Japanese had been removed from their homes to "relocation centers." With barbed wire fences, desert locations, military police with loaded guns, interrogation, guard towers, barracks life, the centers had the physical properties of concentration camps. There was one important difference: the possibility of voluntary emigration to the Midwest and East, of which almost 35,000 took advantage, primarily Nisei. Whatever the difference, it did not change the fact that the camps represented a "drastic invasion of the rights of citizens of the United States by their own government," and did not go unchallenged. The case of Hirabayashi vs. United States included arguments in favor of the internment:

> In the critical days of March, 1942, the danger to our war production by sabotage and espionage in this area seems obvious . . . At a time of threatened Japanese attack on this country the nature of our inhabitants' attachments to the Japanese enemy was consequently a matter of grave concern.
>
> There is support for the view that social, economic and political conditions which have prevailed since the close of the last century, when the Japanese began to come to this country in substantial numbers, have intensified their solidarity and have in large measure prevented their assimilation as an integral part of the white population. . .
>
> The restrictions, both practical and legal, affecting the privileges and opportunities afforded to persons of Japanese extraction residing in the United States, have been sources of irritation and may well have tended to increase their isolation, and in many instances their attachments of Japan and its institutions.[69]

George Hirabayashi was a senior at the University of Washington at the time. His statement included the following:

> The violation of human personality is the violation of the most sacred thing which man owns. This order for the mass evacuation of all persons of Japanese descent denies them the right to live. It forces thousands of energetic, law-abiding individuals to exist in miserable psychological conditions and a horrible physical atmosphere. This order limits to almost full extent the creative expressions of those subjected. It kills the desire for a higher life. Hope for the future is exterminated.[70]

The wartime evacuation of Japanese-American citizens to internment camps contains a warning to the nation that collective guilt and group incarceration without due process of law can happen in the United States, to American citizens.

The Rights of Afro-Americans have also been abused. In the *Souls of Black Folks*, W.E.B. DuBois pondered:

> One feels his two-ness — an American, a Negro, two souls, two thoughts, two unreconciled strivings, two warring ideals in one dark body. . .
>
> The history of the American Negro is the history of this strife, this longing to attain self-conscious manhood, to merge his double self into a better and truer self. . .He would not Africanize America for America has too much to teach the world and Africa. He would not bleach the Negro soul in a flood of white Americanism, for he knows that Negro blood has a message for the world. He simply wishes to make it possible for a man to be both a Negro and an American without being cursed and spit upon . . .[71]

Despite the Emancipation Proclamation and the provisions of the Thirteenth, Fourteenth, and Fifteenth Amendments, the black man has found the freedom promised him, the quality that is his by right, the respect that he has sought, elusive. From the earliest days of our history, the recognition of the humanity of the black man has been in question. Constitutionally he was defined as three-fifths of a man for congressional representation. In *the Federalist*, No. 54, Madison explains the basis of the compromise:

> In being compelled to labor not for himself, but for a master, in being vendible by one master to another master; and in being subject at all times to being restrained in his liberty, and chastised in his body, by the capricious will of another, the slave may appear to be degraded from the human rank, and classed with those irrational animals, which fall under the legal denomination of property. . .The Federal Constitution therefore, decides with great propriety on the case of our slaves, when it views them in the mixt character of persons and of property. This is in fact their true character.
>
> . . .Let the compromising expedient of the Constitution be mutually adopted, which regards them as inhabitants, but as debased by servitude below the equal level of free inhabitants, which regards the *slave* as divested of two fifths of a man.[72]

Thus, the degradation of blacks, "institutionalized within the very framework of the new government," has been carried-over into the twentieth century. Segregation in education and public facilities, disfranchisement and discrimination in employment and housing are manifestations of black degradation and oppression. Maslcolm X, in a speech given before the Militant Labor Forum in April, 1964 spoke of the response of blacks to this oppression:

> . . .All of our people have the same goals. The same objective. That objective is freedom, justice, equality. All of us want recognition and respect as human beings. We don't want to be integrationists. Nor do we want to be separationists. We want to be human beings. Intergration is only a method that is used by some groups to obtain freedom, justice, equality or human dignity.
>
> So our people have made the mistake of confusing the methods with the objectives. As long as we agree to objectives, we should never fall out with each other just because we believe in different methods or tactics or strategy to reach a common goal.
>
> We have to keep in mind at all times that we are not fighting for integration, nor are we fighting for separation. We are fighting for recognition as human beings . . .[73]

Malcolm X captures succinctly the character of the struggle of Afro-Americans during this century. It has been as much a struggle for the right of freedom, justice and equality, as it has been for recognition and respect as human beings. What has differed has been the means to achieve those goals. While some have adopted *nationalist* or black power philosophies as a vehicle to achieve freedom and respect, others have approached the problem through *protest organizations* or *self-improvement* doctrines. Still others have chosen *non-violent direct action* as the means. Some have simply tried *migration* as a way to a better life. But the goals have remained the same.

As discrimination and racism increased after the Compromise of 1877, blacks increasingly clung to self-improvement philosophies as the hope to better their condition. Frederick Douglass, speaking in 1880, stated:

> Neither we, nor any other people will ever be respected till we respect ourselves, and we will never respect ourselves till we have the means to live respectably. . .A race which cannot save its earnings. . . can never rise in the scale of civilization. . .This part of our destiny is in our own hands. . .If the time shall ever come when we shall possess in the colored people of the United States, a class of men noted for enterprise, industry, economy and success, we shall no longer have any trouble in the matter of civil and political rights. The battle against popular prejudice will have been fought and won . . .[74]

But perhaps the strongest proponent of the self-improvement ideology was Booker T. Washington:

> I believe the past and present teach but one lesson — to the Negro's friends and to the Negro himself — that there is but one way out, that there is but one hope of solution; and that is for the Negro in every part of America to resolve from henceforth that he will throw aside every non-essential and cling only to the essential, that his pillar of fire by night and pillar of cloud by day shall be property, economy, education and Christian character. To us just now these are the wheat, all else the chaff. The individual or race that owns the property, pays the taxes, possesses the intelligence and substantial character, is the one which is going to exercise the greatest control in government, whether he lives in the North or whether he lives in the South. [75]

in government, whether he lives in the North or whether he lives in the South [75]

And in another statement Washington outlines his outlines his solution to the "Negro Problem." It was his contention that racial pride and solidarity, industrial education, and economic development would help blacks progress:

> The Negro in the South has it within his power, if he properly utilises the forces at hand, to make of himself such a valuable factor in the life of the South that he will not have to seek privileges, they will be freely conferred upon him. To bring this about, the Negro must begin at the bottom and lay a sure foundation. While the Negro is laying the foundation he will need help, sympathy, and simple justice. Progress by any other method will be but temporary and superficial. . .Agriculture is, or has been, the basic industry of nearly every race or nation that has succeeded. The Negro got a knowledge of this during slavery. Hence, in a large measure, he is in possession of this industry in the South today. The Negro can buy land in the South, as a rule, wherever the white man can buy it, and at very low prices. Now, since the bulk of our people already have a foundation in agriculture, they are at their best when living in the country, engaged in agricultural pursuits. . .
>
> But it is asked, Would you confine the Negro to agriculture, mechanics, and domestic arts, etc.? Not at all; but along the lines that I have mentioned is where the stress should be laid just now and for many years to come. We will need and must have many teachers and ministers, some doctors and lawyers and statesmen; but these professional men will have a constituency or a foundation from which to draw support just in proportion as the race prospers along the economic lines that I have mentioned.[16]

Among Washington's strongest critics was W.E.B. DuBois who opposed Washington's policy of accomodation and his emphasis on industrial education. While DuBois accepted part of Washington's doctrine of self-improvement, he felt freedom for blacks lay in the pursuit of higher education and demands for political equality:

> Mr. Washington distinctly asks the black people give up, at least for the present, three things —
> First, political power,
> Second, insistence on civil rights,
> Third, higher education of Negro youth —
> and concentrate all their energies on industrial education, the accumulation of wealth, and the conciliation of the South. This policy has been courageously and insistently advocated for over fifteen years, and has been triumphant for perhaps ten years. As a result of this tender of the palm-branch, what has been the return? In these years there have occurred:
> 1. The disfranchisement of the Negro.
> 2. The legal creation of a distinct status of civil inferiority for the Negro.
> 3. The steady withdrawal of aid from institutions for the higher training of the Negro.
>
> These movements are not, to be sure, direct results of Mr. Washington's teachings; but his propaganda has, without a shadow of doubt, helped their speedier accomplishment. The question then comes: Is it possible, and probable, that nine millions of men can make effective progress in economic lines if they are deprived of political rights, made a servile caste, and allowed only the most meager chance for developing their exceptional men? . . .
>
> The black men of America have a duty to perform, a duty stern and delicate — a forward movement to oppose a part of the work of their greatest leader. So far as Mr. Washington preaches Thrift, Patience, and Industrial Training for the masses, we must hold up his hands and strive with him, rejoicing in his honors and glorying in the strength of this Joshua called of God and of man to lead the headless host. But so far as Mr. Washington apologizes for injustice, North to South, does not rightly value the privilege and duty of voting, belittles the emasculating effects of caste distinctions, and opposes the higher training and ambition of our minds — so far as he, the South, or the Nation, does this — we must unceasingly and firmly oppose them . . .[17]

DuBois' insistence on political equality led him to help form the Niagara Movement in 1905 — a protest organization aimed at combatting Washington's policies.

An outgrowth of the Niagara Movement was the National Association for the Advancement of Colored People (NAACP). Biracial in membership, and working primarily in the area of legal rights, the NAACP was never a mass movement. After World War I, a decade after its founding, the organization reiterated its policies:

> The National Association for the Advancement of Colored People is concerned primarily with public equality. . .
> *It seeks to reach the conscience of America. . .*
> *Lynching must be stopped. . .*
> *Legal work must be done. . .*
> *Legislation must be watched. . .*
> *The public must be kept informed. . .*
> *The facts must be gathered and assembled. . .*
> *The country must be thoroughly organized. . .*
> But, not money alone is needed. Men and women are vital to success. Public opinion is the mainforce upon which the Association relies for a victory of justice. Particularly do we seek the active support of all white Americans who realize that a democracy cannot draw the color line in public relations without lasting injury to

its best ideals. [78]

Of particular importance was the NAACP's attack on lynching. Articles appearing in the *Crisis*, the voice of the NAACP, were influential in awakening the conscience of the larger community. The following account is typical:

> While a fire was being prepared of boxes, the naked boy was stabbed and the chain put over the tree. He tried to get away, but could not. He reached up to grab the chain and they cut off his fingers. The big man struck the boy on the back of the neck with a knife just as they were pulling him up the tree. . .He was lowered into the fire several times by means of the chain around his neck. Someone said they would estimate the boy had about twenty-five stab wounds, none of them death-dealing . . .
>
> The tree where the lynching occurred was right under the Mayor's window. Mayor Dollins was standing in the window, not concerned about what they were doing to the boy, but that the tree would be destroyed . . .
>
> This is an account of one lynching. It is horrible, but it is matched in horror by scores of others in the past thirty years. . .it is matched by 2842 other lynchings which have taken place between January 1, 1885, and June 1, 1916. [79]

The NAACP's resourcefulness was instrumental in the attempt to eliminate segregation in education. The work of the NAACP's Legal Defense and Education Fund, Inc. was responsible in securing the landmark Supreme Court decision in Brown v. Board of Education declaring racially segregated schools unconstitutional. In the Kansas case the court had found that:

> Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority affects the motivation of the child to learn. Segregation with the sanction of law, therefore had a tendency to [retard] the educational and mental development of negro children and to deprive them of some of the benefits they would receive in a racial [ly] integrated school system. [80]

Chief Justice Warren delivering the opinion of the court concluded:

> We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and other similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourth Amendment. This disposiion makes unnecessary any discussion whether such segregation also violates the Due Process Clause of the Fourteenth Amendment. [81]

While the NAACP concentrated its efforts on ending lynching, segregation in education, and on securing voting rights, another protest organization, the National Urban League functioned "chiefly as a social work agency concerned with opening new industrial opportunities to Negroes. Typically the Urban League, nationally and locally, aimed at an alliance with the white business community." The following statement by Whitney Young at the League's national conference in 1963 indicated a shift in philosophy:

> . . .For the Urban League this is a time to express willingness to witness that while our past contributions need no defense or apology our future challenges and opportunities are greater and more demanding than any we have ever faced. . .
>
> As we win the battle for civil rights, we can, and might well lose the war for human rights. . .
>
> . . . To put it bluntly: We say that while there must be those who in the interest of justice and equality must walk the picket-line in front of restaurants, hotels, theatres, business establishments — these same persons, and others, with equal zest and determination, must walk to the libraries, to the adult education classes, and to the voting registrar's office. And they must take time to serve on policy-making bodies of agencies and institutions. For reality now dictates that we must recognize that those who would enter the new doors of opportunity must have the skills to qualify, the money to pay, and the confidence and security of knowing that they are, in fact, equal citizens.[82]

The demands of northern industry for labor during World War I and the severity of life in the South, especially for the tenant black farmer, caused Afro-Americans to choose migration to the north as a viable means to a better life. Many letters of inquiry were written to the *Chicago Defender*, a black newspaper that urged Negroes to move North:

> My dear Mr. H—
>
> I am a young man and am disable, in a very great degree, to do hard manual labor. I was educated at Alcorn College and have been teaching a few years: but ah: me the

> Superintendent under whom we poor colored teachers have to teach cares less for a colored man than he does for the vilest beast. I am compelled to teach 150 children without any assistance and receives only $27.00 a month, the white with 30 get $100.
>
> I am so sick I am so tired of such conditions that I sometime think that life for me is not worth while and most eminently believe with Patrick Henry "Give me liberty or give me death." . . .
>
> Dear Sirs: I am writeing to you all asking a favor of you all. I am a girl of seventeen, School just closed I have been going to school for nine months and I know feel like I aught to go to work. And I would like very very well for you all to please forward me to a good job. but there isnt a thing here for me to do, the wages here is from a dollar and a half a week. What could I earn Nothing. I have a mother and father my father do all he can for me but it is so hard. . .I feel it is my duty to help.[33]

Arriving in the North, blacks found that it was not the "promised land" that they had envisioned. Many came to believe that Negroes would never receive justice and equality of opportunity in America and that their only hope lay in establishing their own nation in Africa. Led by Marcus Garvey, a West Indian, the Univeral Negro Improvement Association (UNIA) was the first mass black nationalist movement, and achieved a membership of a half million blacks in thirty American cities:

> The Universal Negro Improvement Association is an organization among Negroes that is seeking to improve the condition of the race, with the view of establishing a nation in Africa where Negroes will be given the opportunity to develop by themselves, without creating the hatred and animosity that now exist in countries of the white race through Negroes rivaling them for the highest and best positions in government, politics, society and industry. The organization believes in the rights of all men, yellow, white and black. To us, the white race has a right to the peaceful possession and occupation of countries of its own and in like manner the yellow and black races have their rights. It is only by an honest and liberal consideration of such rights can the world be blessed with the peace that is sought by Christian teachers and leaders.
>
> . . .Hitherto the other Negro movements in America, with the exception of the Tuskegee effort of Booker T. Washington, sought to teach the Negro to aspire to social equality with the whites, meaning thereby the right to intermarry and fraternize in every social way. . . The Universal Negro Improvement Association on the other hand believes in and teaches the pride and purity of race. . .[34]

The frustration, poverty, and despair of the black ghetto dweller during the sixties triggered submerged hostilities that led to violent outbreaks, riots and insurrection. From this, black nationalism again emerged as an openly advocated alternative. Gathering inspiration from successful liberation efforts of colonized people in Africa and Asia, nationalists used the concept of self-determination as their rallying cry. Malcolm X, having disassociated himself from Elijah Muhammed, was the avowed leader of the movement:

> I am still a Muslim but I'm also a nationalist, meaning that my political philosophy is black nationalism, my economic philosophy is black nationalism, my social philosophy is black nationalism. And when I say this philosophy is black nationalism, to me this means that the political philosophy of black nationalism is that which is designed to encourage our people, the black people, to gain complete control over the politics and the politicians of our own community. . .
>
> Our economic philosophy is that we should gain economic control over the economy of our own community, the businesses and the other things which create employment so that we can provide jobs for our own people instead of having to picket and boycott and beg someone for a job.
>
> . . . our social philosophy means that we feel that it is time to get together among our own kind and eliminate the evils that are destroying the moral fiber of our society, like drug addiction, drunkenness, adultery . . . We believe that we should lift the level or the standard of our own society to a higher level wherein we will . . . not be inclined toward pushing ourselves into other societies where we are not wanted.
>
> All of that aside. . . we are dealing with black revolution. . . Revolutions overturn systems, and there is no system on this earth which has proven more corrupt, more criminal than this system that. . . still enslaves 22,000,000 Afro-Americans. . .
>
> . . .if the Civil War had freed him, he wouldn't need civil-rights legislation today. If the Emancipation Proclamation, issued by the great shining liberal called Lincoln, had freed him, he wouldn't be singing "We Shall Overcome"

> today. If the amendments to the Constitution had solved his problems, still his problems wouldn't be here today. And even if the Supreme Court desegregation decision of 1954 was genuinely and sincerely designed to solve his problem, his problem wouldn't be with us today.[85]

An outgrowth of Malcolm X's nationalism and the disillusionment of the civil rights struggle was the cry for "Black Power." Stokely Carmichael of SNCC, speaking for the movement, said:

> Black power can be clearly defined for those who do not attach the fears of white America to their questions about it. We should begin with the basic fact that black Americans have two problems: they are poor and they are black. All other problems arise from this two-sided reality: lack of education, the so-called apathy of black men. Any program to end racism must address itself to that double realtiy.
>
> . . .Thus we determined to win political power, with the idea of moving on from there into activity that would have economic effects. With power the masses could *make or participate in making* the decisions which govern their destinies, and thus create basic change in their day-to-day lives. . .[86]

On the West Coast, in the mid-sixties, the Black Panther Party headed by Huey P. Newton, surfaced. They, too based their program around the theory of self-determination but with more specific criticisms of the oppressive policies of the system, especially the brutality of the police in the black community. But it was the non-violent direct action movement that first awoke to the conscience of this country to the unjust plight of black Americans.

Coining the phrase "non-violent direct action," the Congress of Racial Equality (CORE) was the first organization of this type. Founded in 1942 by James Farmer, it attempted to apply Gandhian techniques to the racial struggle in America:

> From its inception, the Fellowship has thought in terms of developing definite, positive, and effective alternatives to violence as a technique for resolving conflict. It has sought to translate love of God and man, on one hand, and hatred of injustice on the other, into specific action.[87]

While CORE and A. Phillip Randolph's March on Washington Movement in the forties were early examples of non-violent direct action campaigns, the country was made dramatically aware of the tactic of mass action during the Montgomery Bus Boycott in 1955. From that struggle emerged Martin Luther King who became the symbol and philosopher of the non-violence movement as well as an eloquent spokesman for the plight of Afro-Americans. He joined with others — SCLC (Southern Christian Leadership Conference), SNCC (Student Non-Violent Coordinating Committee) and CORE to assault the rampant racism and injustice existing in the South during the late fifties and early through sit-ins, pray-ins, freedom-rides and voter registration drives. His letter from Birmingham Jail movingly captures the spirit and principles of the movement:

> While confined here in the Birmingham city jail, I came across your recent statement calling my present activities "unwise and untimely.". . .
>
> . . .I am in Birmingham because injustice is here. Just as the prophets of the eighth century B.C. left their villages and carried their "thus saith the Lord" far beyond the boundaries of their home towns, and just as the Apostle Paul left his village of Tarsus and carried the gospel of Jesus Christ to the far corners of the Graeco-Roman world, so am I compelled to carry the gospel of freedom beyond my own home town, Like Paul, I must constantly respond to the Macedonian call for aid. . .
>
> We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed. Frankly, I have yet to engage in a direct-action campaign that was "well-timed" in the view of those who have not suffered unduly from the disease of segregation. For years now I have heard the word "Wait!" It rings in the ear of every Negro with piercing familiarity. This "Wait!" has almost always meant "Never." We must come to see, with one of our distinguished jurists, that "justice too long delayed is justice denied."
>
> We have waited for more than 340 years for our constitutional and God-given rights. The nations of Asia and Africa are moving with jetlike speed toward gaining political independence, but we still creep at horse-and-buggy pace toward gaining a cup of coffee at a lunch counter. Perhaps it is easy for those who have never felt the stinging darts of segregation to say, "Wait." But when you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate-filled policemen curse, kick and even kill your black brothers and sisters; when you see the vast majority of your twenty million Negro brothers smothering in an airtight cage of poverty in the midst of an affluent society;. . .
>
> There comes a time when the cup of endurance runs over, and men are no longer willing to be

plunged into the abyss of despair. I hope, sirs, you can understand our legitimate and unavoidable patience. . .

I hope the church as a whole will meet the challenge of this decisive hour. But even if the church does not come to the aid of justice, I have no despair about the future. . .[88]

The strivings of Afro-Americans have been expressed in countless other ways. In 1909 James Weldon Johnson wrote what was to be considered the Negro National Anthem: "Lift Every Voice and Sing:"

Lift every voice and sing
Till earth and heaven ring,
Ring with the harmonies of Liberty;
Let our rejoicing rise
High as the listening skies,
Let it resound loud as the rolling sea.
Sing a song full of the faith that the dark past
has taught us,
Sing a song full of the hope that the present
has brought us,
Facing the rising sun of our new day begun
Let us march on till victory is won.

God of our weary years,
God of our silent tears,
Thou who has brought us thus far on the way;
Thou who has by Thy might
Led us into the light,
Keep us forever in the path, we pray.
Lest our feet stray from the places, our God,
where we met Thee,
Lest, our hearts drunk with the wine of the
world, we forget Thee;
Shadowed beneath Thy hand,
May we forever stand.
True to our God,
True to our native land.[89]

Martin Luther King speaking at the March on Washington in 1963, said:

. . .I have a dream that one day this nation will rise up and live out the true meaning of its creed. . .

I have a dream that one day on the red hills of Georgia, the sons of former slaves and sons of former slaveowners will be able to sit down together at the table of brotherhood.

I have a dream that one day even the state of Mississippi, a state sweltering with the heat of injustice, sweltering with the heat of oppression, will be transormed into an oasis of freedom and justice.

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

I have a dream that one day every valley shall be exalted, every hill and mountain shall be made low, the rough places will be made plain, and the crooked places will be made straight, and the glory of the Lord shall be revealed and all flesh shall see it together. . .

This is our hope. . .[90]

Langston Hughes, on the responsibility of the Negro artists, wrote:

One of the most promising of the young Negro poets said to me once, "I want to be a poet — not a Negro poet," meaning, I believe, "I want to write like a white poet"; meaning subconsciously, "I would like to be white." And I was sorry the young man said that, for no great poet has ever been afraid of being himself. And I doubted then that, with his desire to run away spiritually from his race, this boy would ever be a great poet. But this is the mountain standing in the way of any true Negro art in America — this urge within the race toward whiteness, the desire to pour racial individuality into the mold of American standardization, and to be as little Negro and as much American as possible. . .[91]

In the decade of the seventies, blacks still find themselves engaged in a struggle for freedom and human dignity. For many, historian Lerone Bennett's comments on the Bicentennial ring true:

. . . The question I'm raising here is an American question, not a black question. Or, better, it is an American question precisely because it is a black question. America is not right. America has never been right. The wrong we suffer as black people is a reflection of a deeper sickness at the heart of American society. What we suffer, to paraphrase Richard Wright, is what America is.

For this reason, and for others as well, I say No to the Bicentennial.

No for all those who believed, and did not see.

No for all those who said it and did it, and died broken and betrayed.

No for W. E. B. Du Bois whose body "lies a-mouldering' " in a Ghana grave because we didn't believe it.

No for Martin King and Malcolm X and Medgar Evers. No for Harriet Tubman. No for Nat Turner. No for James Earl Chaney. No for Morning Cloud and Osceola and Morning Dew.

No for millions of slaves, and the millions of sharecroppers, who lived through two hundred years of Hell and sleep now in moonless nights in unmarked graves.

No for all the black men who died for the freedom of white folk, for all the black men who died for General Washington and General Jackson and General Pershing and General Eisenhower.

No for the Americans, for the *real* Americans. And yes, No for the whites who believed it and tried to live it. No for Tom Paine and old John Brown. No for Thad Stevens and Wendell Phillips. No for the Schwerners and Goodmans, for all the men and women who were crucified for believing what unbelievers are now celebrating. . .

Let America be America again.
Let it be the dream it used to be.
Let it be the pioneer on the plain
Seeking a home where he himself is free.

(America never was America to me)
Langston Hughes[92]

And from the editorial of the August 1975 issue of *Ebony* comes:

Nearly 200 years have passed since the ratifying of the Declaration of Independence and it is time for blacks and the nation as a whole to take a look at what has come to pass. As symbolized by the arms in chains in the photograph at right, no blacks are truly free. Their legal rights have been spelled out in civil rights legislation but economically they are still at the bottom of the ladder. Education for blacks, especially in big city ghettos, trails far behind the national average. Black workers are still the last hired (unless a federal court steps in to force compliance with the law) and the first fired. The unemployment rate for blacks is consistently twice as high as that of whites and among teenagers and young adults it rises to 40 or 50 percent in many big city areas. A great number of whites still feel that blacks have no rights a white man is bound to respect, and despite laws, there is still resistance to the free movement of blacks within the housing field. Blacks are still often intimidated by police, jailed without cause and discriminated against in the courts.

There is no denying that progress has been made — but 200 *years*?

Let's try it again, starting right now: "We hold these Truths to be self evident, that all Men are created equal. . ."[93]

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Epilogue

This compilation has been only a fractional glimpse of some of the great issues that have confronted the American people. Repeatedly the account has had to include both success and tragic loss, fulfillment for some and discouragement for others. The American dream has been challenged by the American reality, but even if modified, the dream has not gone away. The immigrant who did not find the streets of his Promised Land cluttered with gold pieces, at least found more options for living than in his homeland. There is an increasing acceptance of diversity, and an interest in alternative ways of thinking. One of the original Americans, Vine Deloria, asserts that "we Indians will show this country how to act human. Someday this country will revise its constitution, its laws, in terms of human beings, instead of property . . ." His opinion appears to have a better chance of a hearing than even ten years before he expressed it. To fulfill the ideals with which the nation so hopefully began has required debate, struggle, and even bloodshed. Nevertheless, as Frederick Douglass predicted, "This struggle will go on . . ." A new wording of the nation's flag salute concluded with an aspiration rather than an unrealistic claim, that the republic for which it stands shall be, in truth, one nation under God, dedicated to liberty and justice for all.

The unfinished business of America is aptly expressed by the following lines from a poem by Langston Hughes:

Freedom's Plow

---

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